

APPLICATION INSTRUCTIONS

**COMMERCIAL USE AUTHORIZATION
U.S. DEPARTMENT OF THE INTERIOR**



**Dry Tortugas National Park
Attn: Chief Ranger's Office/Everglades National Park
40001 SR 9336
Homestead, FL 33034
305/242-7730
Fax: 305/242-7716**

Quick reference to documents helpful in completing the application	Page No.
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Instruction Guide

COMMERCIAL USE AUTHORIZATION

I. GENERAL INFORMATION

- (1) A maximum of 30 Commercial Use Authorizations (hereinafter “CUAs”) will be issued for commercial services appropriate to the purposes for which the Park was created, as set forth in its enabling legislation. **CUA holders will be subject to established carrying capacity restrictions for the use of sites and areas within the Park.**
- (2) An Applicant may apply for a CUA for each of the four allowable commercial visitor services.
- (3) An Applicant can apply for more than one CUA per commercial service, but additional CUAs will only be awarded to the Applicant if the total number of CUAs allowed for that commercial service has not been issued.

- (4) Each CUA is valid for two calendar years. **Upon expiration, all CUA holders will be required to re-apply and compete for a new CUA.**
- (5) All Dry Tortugas National Park (Park) CUA business activities (including the exchange of funds) must begin and end outside the Park boundary.
- (6) **CUA holders will be responsible for ensuring that their customers pay the per person entrance fee at Garden Key. CUA holders may enter into a separate fee agreement with the National Park Service (hereinafter “NPS”) authorizing them to collect the entrance fee for the Park. The CUA holder may be compensated for providing the fee collection service under the separate fee agreement. Failure to comply with entrance fee requirement may result in termination of CUA.**
- (7) Rates charged by the CUA holder for services in the Park must be reasonable as determined by the National Park Service.
- (8) Non-profit organizations that will not be deriving taxable income from the activity are not required to obtain a CUA; however, the activity may require a Special Use Permit. (Please direct questions regarding non-profit status to the Chief Ranger’s Office, Special Park Uses Program Manager at Everglades National Park. Contact information is provided on page 9 of these instructions.)
- (9) **Permits/reservations for camping and visits to Loggerhead Key are not included in the CUA. These permits must be applied for on a trip-by-trip basis and are not guaranteed.**
- (10) **Administratively, we may combine Wildlife Viewing and Snorkel/Dive activities on one permit, for the same vessel, based on the assumption that these activities are mutually exclusive, i.e. only one activity is conducted per trip. However, applicant must submit two separate applications to satisfy the conditions for each different activity.**

II. APPROVED COMMERCIAL VISITOR SERVICES

Service Appendix Number	Service Description	Definitions/Requirements	Number of CUAs to be Issued
A	Guided Fishing Charters	Guided fishing excursions <ul style="list-style-type: none"> • One CUA per vessel • Limit of 6 passengers per vessel • Marine heads required on vessel • May land passengers on Garden Key without advance reservation. Passengers must pay park admission fee. • Other than the RNA* (Research Natural Area), including the Garden Key Anchorage, vessels must anchor on sandy seabed • Fishing prohibited in the RNA. • Vessel fishing license issued by the State of Florida • Except as superseded by special regulations (36 CFR 7.27), State of Florida fishing regulations for Gulf Coast waters apply • Catch may not be sold 	11

B	Diving/Snorkeling	<p>Supervised SCUBA diving and/or snorkeling</p> <ul style="list-style-type: none"> • One CUA per vessel • Limit of 12 passengers per vessel • Marine heads required on vessels • May land passengers on Garden Key without advance reservation. Passengers must pay park admission fee. • Other than the RNA* (Research Natural Area), including the Garden Key Anchorage, vessels must anchor on sandy seabed • In RNA, must use mooring buoys (anchoring prohibited) • See enclosed “Special Conditions” for further requirements pertaining to Dive Operations 	9
C	Wildlife Viewing	<p>Bird Watching/sightseeing involving wildlife activities</p> <ul style="list-style-type: none"> • One CUA per vessel • Marine head required on vessel • May land passengers on Garden Key without advance reservation. Passengers must pay park admission fee. • Other than the RNA* (Research Natural Area), including the Garden Key anchorage, vessels must anchor on sandy seabed • In RNA, must use mooring buoys (anchoring prohibited) • Landings permitted only at Park designated areas, as provided for by Park regulations, that will not potentially conflict with or adversely affect NPS authorized transportation concessioners • Based on demand, days for landing on Loggerhead may be pre-assigned. • Landings not permitted when islands are designated “closed” for wildlife/bird nesting 	8
D	Sailing	<p>Live-aboard sailing tour</p> <ul style="list-style-type: none"> • One CUA per vessel • Limit of 20 to 25 visitors per trip • Marine head required • May land passengers on Garden Key without advance reservation. Passengers must pay park admission fee • Other than the RNA* (Research Natural Area), including the Garden Key Anchorage, vessels must anchor on sandy seabed • In the RNA, must use mooring buoys (anchoring prohibited) • Landings permitted only at Park designated areas, as provided for by Park regulations, that will not potentially conflict with or adversely affect NPS authorized transportation concessioners • Must apply for separate CUAs if offering snorkel/SCUBA or fishing anywhere other than the designated anchorage of the Park 	2

* See enclosed map of Dry Tortugas National Park and its RNA.

III. COMMERCIAL USE AUTHORIZATION PROCESS

- (1) **Complete, Sign, and Date Application Form.** Complete the application form and address the appropriate Supplemental Questions.
- (2) **Mail completed, signed forms and fees (including Supplemental Questions). Completed application must be received by November 4, 2011,** to be eligible for the initial CUA qualification.
- (3) **Multi-level NPS Qualification Process**

If there are equal or fewer numbers of qualified applicants than the number of CUAs available, a CUA may be issued to each applicant the Superintendent determines is capable of providing the specific commercial visitor service applied for in accordance with the four weighted factors listed below.

- (a) Visitor Safety
- (b) Resource Protection
- (c) Applicant's Relevant Experience
- (d) Planned Visitor Experience

If more than the allowable number of applications is received for a commercial service, the National Park Service (NPS) will process the CUA applications in two stages in order to fully address Park safety and resource matters.

The first stage represents an initial qualification using the information provided in the Application form to ensure that specific requirements for each authorized commercial visitor service are met and all of the required information has been provided. An Applicant's failure to complete the information required in the Application Form and the Supplemental Questions, and/or the Application package is not received by November 4, 2011 may result in the rejection of the Application without further consideration. The NPS will determine an Applicant's initial qualification on a pass/fail basis. An Application is initially qualified when it manifests the Applicant's assent to the terms and conditions of the CUA, provides all of the information required by the Application, including signature and completion of the Application Form, provides a narrative response to the Supplemental Questions, and is received by November 4, 2011.

In a second qualification round, the Superintendent will rank the qualified applications using equally weighted factors for each of the four narrative responses:

- (e) **Visitor Safety**
 - (f) **Resource Protection**
 - (g) **Applicant's Relevant Experience**
 - (h) **Planned Visitor Experience**
- (4) **Confirmation and Award:** All applications for a CUA will receive a response from our office. If the Application results in an award, the CUA will be mailed to the Applicant for signature and additional required documentation, which must be received by the deadline stated in the letter. ***If the Applicant is not awarded a CUA, the Application/ Administration Fee will not be returned.*** (See Section VII for Fee Schedule and Definitions).
 - (5) **Additional Reporting Requirements:** Once a CUA is awarded, the CUA Holder is required to forward the following information

Immediately:

- (a) Brochure or online information site address showing how the activity is described and conducted (if the entity advertises the service). To be submitted immediately after the CUA has been awarded. Any material changes in advertising materials must be forwarded to the NPS within 5 days of the change.
- (b) Proof of Insurance – see Section VI below for detailed information

At the time periods specified:

- (a) Guide Fishing Catch Logbook: CUA holders for guide fishing will be provided catch logbooks. They will be required to submit **monthly** catch reports. Reports are due to the Park by the 15th of each month.
- (b) Annual Report: An Annual Report (which will be provided to approved CUA holders) is due to the Park no later than **February 15** of each year for the preceding calendar year.

IV. APPLICATION FORM

The explanations below correspond directly with the numbered items on the Application Form.

- (1) Give the legal name of your business. If you have a secondary name under which you are doing business (d.b.a.), please give that name also.
- (2) Check the box that identifies your type of business.
- (3) Provide contact information. Over the term of your authorization, it may be necessary to contact you to obtain or share information. Your contact information is also published in the NPS Commercial Services Directory.
- (4) Provide your Employer Identification Number (EIN) or Social Security Number (SSN). This is a requirement of the 1996 Debt Collection Act. The EIN or SSN that you provide will be used as needed to collect debts.
- (5) Give the name(s) of persons designated as Authorized Agents for your business.
- (6) NPS Management Policy prohibits employees of the NPS and their spouses and minor children from acquiring or retaining any authorization conducting commercial services in a Park area.
- (7) Each authorization must be licensed by the appropriate city or county in which the primary business address and base of operation is located. If you do not have a current Business License, please contact your local city or county government offices for further information and assistance. Provide a copy with your application. If the primary business address and base of operation is located in an area where a license is not required, please provide a note from the appropriate municipal office verifying that fact.
- (8) **Provide names and titles of employees who will work in the Park under the authority of the CUA. These are usually mates/dive masters that are your employees (not contracted service). Use additional paper if needed. Please report any future changes to your list of employees by mailing an updated list, at least 7 days prior to any change of employees ,to**

Dry Tortugas National Park CUA Program – c/o Chief Ranger’s Office,, Everglades National Park, 40001 SR 9336, Homestead, FL 33034.

- (9) Describe the vessel that you intend to operate in the Park boundaries under your authorization.
- (10) If the answer is “yes”, provide the details as requested.
- (11) **List each accident and give the name of the person, date and place of occurrence, a copy of any relevant accident or incident reports, and explain what actions were taken to prevent the accident from being repeated in the future. If none, so state. Some CUAs may require this question to be further detailed in an Appendix. You must respond in both places.**
- (12) Complete the enclosed Supplemental Questions that are specific to your service and attach to this Application.
- (13) Prospective Applicants should carefully examine the Application and fully familiarize themselves as to the conditions and matters that can in any way affect the authorized commercial services or the costs thereof. Should a prospective Applicant find discrepancies in or omissions from the Application or be in doubt as to their meaning, the Applicant should immediately notify the Special Park Uses Program Manager, but no later than prior to the closing date for submission of Applications.
- (14) Please sign and date the application. If the person signing this application is an Authorized Agent for the business, proof of signing authority must accompany this application.

V. GROUP SIZE LIMITS

Please see the applicable Service Appendices in Section II.

VI. INSURANCE AND THE MINIMUM AMOUNT REQUIRED

The CUA holder is required to maintain liability insurance naming the United States of America (National Park Service, Dry Tortugas National Park, c/o Everglades National Park, 40001 SR 9336, Homestead, FL 33034) as an additional insured at no less than the coverage amounts described below:

- (1) General Liability

Service Appendix Number	Service Description	Minimum per Occurrence Commercial General Liability Limits
A	Guide Fishing	\$300,000
B	Diving/Snorkeling	\$1,000,000
C	Wildlife Viewing	\$300,000
D	Sailing	
	1-10 customers	\$300,000
	11-15 customers	\$500,000
	16 or more	\$1,000,000

- (2) If the limit required by the State where the CUA holder is incorporated is higher than the limit listed above, the CUA holder will provide the higher level of coverage. The CUA holder will provide copies of the certificates of insurance to the Park as part of the application process with the required endorsement listing the United States of America (as noted above) as an additional insured before the CUA is issued.
- (3) Workers compensation coverage must be provided to eligible workers as required by applicable State law.

- (4) Coverage provided by insurance companies must meet the following minimum requirements:
 - (a) All insurers for all coverage's must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
 - (b) All insurers for all coverage's must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
 - (c) All insurers must be admitted (licensed) in the State in which the CUA holder is domiciled.
- (5) The CUA requires the holder to assume liability for and agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees, for and against any and all liabilities, obligations, losses, damages or judgments (including, without limitation, attorney and expert fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomever made, in any way connected with or arising out of the activities of the entity, its employees, agents, or contractors, under the CUA.

VII. FEE SCHEDULE

The authority for the NPS to recover associated management and administrative costs of a CUA is found in PL 105-18 and 31 U.S.C.9701 and 16 U.S.C. 3a. The Director must charge a reasonable fee for the issuance of a commercial use authorization in order to recover associated management and administrative costs. The authority to charge Recreational Use Fees is found in P.L. 105-18 and the authority to charge CUA fees is found in P.L. 105-391.

- (1) **Application Fee/Administrative Fee** is based on costs associated with processing the application (i.e. mailing, distribution and initial review to ensure that the information supplied is sufficient to form a decision) and the administrative process, including the determination and the approval of the authorization. **This fee must accompany the application and is non-refundable and non-returnable.**
- (2) **Administrative/Management/Monitoring Fee** is charged based on the actual costs incurred by all Park divisions involved in administering, monitoring, supporting or cleanup and restoration after the use by the CUA holder. This fee is paid on an annual basis. Fees may range from between \$100.00 to \$250.00 per year, based upon the actual number of trips to the park and the actual costs incurred. This fee will be billed to the CUA holder.
- (3) **Facility Fee** is charged based on the area and facilities used and associated costs to provide and maintain facilities (i.e. mooring buoys). This fee is paid on an annual basis and will be implemented once mooring buoys are in place.
- (4) The following fees are in effect at Dry Tortugas National Park:
 - (1) Application/Administrative Fee - \$250.00
 - (2) Administrative/Management/Monitoring Fee: Variable
 - (3) Facility Fee: Dive Operation = \$1275
Wildlife Viewing = \$310

VIII. APPLICATION PACKAGE CHECK LIST

Please submit the required documents identified below in your application package:

- Application (completed, signed and dated)
- Supplemental Questions
- U.S. Coast Guard Captain's License (Operator of Uninspected Passenger Vessels (OUPV) or higher) for all vessel operators.
- County Occupational License
- Business Credit Report
- State of Florida Vessel Registration – must be commercial/charter
- Vessel Fishing License(s)
- SCUBA certificates
- CPR/1st Aid/AED certificates
- \$250.00 (non-refundable) Application Fee

REMINDER: Please write your Employer Identification Number on your check.

Documents and fee payments should be mailed to:

**Dry Tortugas National Park CUA Program
Chief Ranger's Office
Everglades National Park
40001 SR 9336
Homestead, FL 33034**

IX. DOCUMENTS TO BE PROVIDED IMMEDIATELY AFTER THE CUA HAS BEEN AWARDED BUT PRIOR TO EFFECTIVE DATE

- (1) Insurance certificate showing the NPS as additionally insured.
- (2) Brochure or online information site address showing how the activity is described and conducted (if the CUA holder advertises the service).

X. FREQUENTLY ASKED QUESTIONS

- (1) **What is a "Commercial Use Authorization"?**

Section 418 of the National Parks Omnibus Management Act of 1998, Public Law 105–391 (Section 418), authorizes (but does not require) the NPS, upon request, to issue commercial use authorizations (CUAs) to persons (referring to individuals, corporations and other entities) to provide commercial services to Park area visitors in limited circumstances. CUAs, although used to authorize commercial services to Park area visitors, are not concession contracts and are not transferable.

CUAs are intended to provide a simple means to authorize the provision of suitable commercial services to visitors in Park areas. The CUA legislation contains limited circumstances in that commercial services (1) do not use fixed commercial facilities within a National Park unit, (2) the commercial activity originates and terminates outside the Park area, (3) no money changes hands on Park lands, including park waters, and (4) no commercial solicitation occurs on Park lands, including park waters.

(2) **What will be the term of this authorization?**

DRTO CUAs are issued for a term of two calendar years.

(3) **What is a "Commercial Visitor Service"?**

This type of service is one that (1) is determined to be an appropriate use of the park; (2) will have minimal impact on park resources and values; and (3) are consistent with the purpose for which the park was established, as well as all applicable management plans and park policies and regulations.

(4) **How long does it take to process my application?**

The time to process an application may vary and can take-up to 45 days. Submitting a complete packet greatly aids the NPS in assessing your application in a timely manner. You will be notified of the outcome via letter.

(5) **Is sub-contracting allowed under the authorization?**

The National Park Service does not allow subcontracting under CUAs.

(6) **May authorization be transferred between companies, individuals, or entities?**

Authorizations cannot be transferred between companies, individuals, or entities.

(7) **Is there a preferential right for renewal of a CUA?**

There is no preferential right for renewal of a CUA.

(8) **What type of insurance is required before this authorization can be approved?**

The CUA must provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the CUA holder or the CUA holder's employees, agents, or contractors, in carrying out the activities and operations required and/or authorized under the authorization. The Park must receive verification of commercial general liability (and transportation insurance, if applicable) coverage before a CUA can be issued and the coverage must be maintained as current during the term of the authorization. See Section VIII for full insurance requirements.

IMPORTANT:

The name on the certificate of insurance must match your individual or business name, including any names used under "doing business as".

(9) **What are the requirements during the second year of a two-year authorization?**

Those permitted under two year authorizations must meet the following requirements **BEFORE** starting the second year of operations:

- (a) **Provide the NPS with proof of current insurance that the NPS has determined is commensurate with the risk involved and the scope and size of the activities.**
- (b) **Be in compliance with all terms and conditions of the CUA for the previous year.**
- (c) **Be current on all fees.**
- (d) **Be in compliance with all past-year reporting requirements**
- (e) **Meet all State, Federal and other agency requirements relating to your operation including Captain's License(s), Vessel Registration, Fishing License(s) and State Business License. Valid and current copies of these documents must be on file.**
- (f) **Provide an updated list of employees.**

(10) **Whom can I contact if I have further questions about CUAs or the CUA process?**

Questions should be directed to the Special Park Uses Program Manager. This position is currently held by Ms. Linda Roehrig, located in the Chief Ranger's Office at Everglades National Park. Ms. Roehrig can be contacted by phone at 305/242-7744.

Her e-mail address is Linda_Roehrig @nps.gov

Information can be mailed to: Dry Tortugas National Park CUA Program
C/o Everglades National Park/Chief Ranger's Office
40001 SR 9336
Homestead, FL 33034

The general Chief Ranger's Office phone number is: 305/242-7730