



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

(2410)

FEB 01 2008

Memorandum

To: Regional Directors

From: Acting Assistant Director, Business Services *Wate Stew*

Subject: Reference Manual 38; Part 18 Leasing Reference Manual

Attached please find a copy of Reference Manual 38 (RM 38), the National Park Service (NPS) Reference Manual for leasing park area properties under the authority of 36 CFR Part 17 and 36 CFR Part 18. RM 38 is intended to give field guidance in the planning, execution and administration of park area leases. It incorporates applicable regulatory requirements and the policies set forth in Director's Order #38(DO-38), issued on January 6, 2006, as well as sample lease instruments and related documents. RM 38, by copy of this memorandum, is being distributed to all park areas that are engaged in property leasing.

Delegations: DO-38 places management responsibility for park area leasing with the Assistant Director for Business Services acting through the Office of Concessions Management. Under DO-38, the applicable Regional Director is delegated authority to execute Part 17 and Part 18 leases with general authority to delegate this responsibility to the applicable superintendent where appropriate. However, please be advised that, pending further policy development: (1) Regional Directors are not permitted to delegate to superintendents authority to execute leases that involve the replacement of a concession contract or commercial use authorization with a lease; and, (2) all decisions to enter into leases must be supported by and consistent with an approved fair market value appraisal unless otherwise approved in writing by this office.

Prior to their execution by the deciding official (Regional Director or superintendent), this office, in accordance with DO-38, must approve proposed leases with terms of more than 10 years; proposed leases or lease amendments that provide for a leasehold mortgage or similar encumbrance; and proposed amendments of existing leases that required the approval of this office prior to execution.

In addition to these requirements for approval by this office, please be advised that, pending development of further policy guidance, prior written approval by this office is required for: (1) leases that replace a concession contract or commercial use authorization with a lease as further described in Policy Memorandum 07-01; and, (2) proposed leases, proposed lease amendments,

or other proposed approvals that would authorize the construction of new buildings, structures or additions to existing buildings or structures under a lease at a cost exceeding \$10,000.

Requests for Approval: In order to obtain approval of proposed leases from this office, the following information must be provided to the Office of Concessions Management:

1. A memorandum signed by the deciding official and, if the deciding official is not the Regional Director, approved by the Regional Director, requesting approval of the proposed lease and stating that the proposed lease meets all applicable requirements of 36 CFR Part 18, NPS Management Policies 2006, and DO-38;
2. A copy of the analysis prepared to document compliance with the determination requirements of 36 CFR 18.4;
3. A written determination documenting why the proposed lease term, in accordance with 36 CFR 18.10, is as short as possible taking into account the financial obligations of the lessee and other relevant factors;
4. A clean and redlined copy of the proposed lease. The redlined copy is to show changes from the applicable sample lease contained in RM 38;
5. A copy of the prospectus (if applicable) that solicited the proposed lease;
6. A copy of the lease proposal that led to the proposed lease;
7. A copy of the approved appraisal that supports the lease; and,
8. A copy of the lease approval provided by the Office of the Solicitor.

Rent Provisions: Pending further policy development: (1) all leases with a term of 5 or more years must contain a CPI adjustment provision; and, (2) all leases with a term of 15 or more years must contain a rent reconsideration provision. See RM 38 for sample provisions.

If there are any questions, please contact Jo A. Pendry, Concession Program Manager at 202/513-7156.

Attachment

cc: Park areas with Leasing Programs