

Commercial Use Authorization Plan

Yellowstone National Park



COMMERCIAL USE AUTHORIZATIONS (CUA)

Established by an Act of Congress on March 1, 1872, Yellowstone National Park encompasses 2.2 million acres in adjacent areas of Wyoming, Montana, and Idaho. Yellowstone hosts over 3 million visitors annually, including 194,000 winter visitors. Commercial visitor services are an important aspect of park operations, visitor experience, and preservation and conservation of park resources and values. The impact of park commercial services on the regional economy exceeds \$500 million annually. The 2011 Yellowstone National Park Visitor Survey conducted by the University of Idaho found an average expenditure of \$382 per group inside the park and \$1,111 outside the park.

More than 250 Commercial Use Authorizations (CUAs) currently operate in the park with annual gross receipts exceeding \$7 million. The authorizations allow activities and services year-round. Except for the road from the North Entrance to the Northeast Entrance, the park's 370 miles of paved roads are closed to wheeled traffic from November to April.

Authority

36 CFR Section 5.3 states, "Engaging in or soliciting any business in park areas, except in accordance with the provisions of a permit, contract, or other written agreement with the United States, except as specifically authorized under special regulations applicable to a park area, is prohibited."

CUAs, a type of permit, fall under the authority of Section 418 of the National Park Service Concession Management Improvement Act of 1998 (16 U.S.C 5966 Public Law 105-81). The section authorizes the National Park Service to issue CUAs to individuals, corporations, and other entities to provide commercial services to park visitors in limited circumstances. These authorizations are not concessions contracts. There are no implementing regulations for CUAs.

In November 2005, the NPS Director issued Interim Guidelines for Commercial Use Authorizations. The guidelines allow Regional Directors to delegate to park Superintendents the authority to issue all CUAs. However, Regional Directors must approve in advance in writing the issuance of any proposed CUA with estimated annual gross receipts of more than \$100,000 and they must notify the Washington Concessions Program Manager of any proposed CUAs with estimated gross receipts of more than \$1,000,000.

About CUAs

- Services authorized must have minimal impact on park resources and values and be consistent with the purpose for which the park was established and with all applicable management plans, park policies, and regulations.
- A Superintendent may not issue more CUAs for any activity than are consistent with the preservation and management of park resources and values.

- A Superintendent may terminate a CUA at any time.
- Some commercial use authorizations are issued for “in-park services.” In-park services originate in the park and are provided solely within the park’s boundaries. They may not have annual gross receipts of more than \$25,000.
- Other commercial use authorizations are issued for “out-of-park services.” Out-of-park services originate and terminate outside of park boundaries, and the use of park area resources is incidental. All aspects of the business (such as marketing, advertising, exchange of money, etc.) must take place outside the park. There is no limit on annual gross receipts.
- CUA holders may not construct any temporary or permanent structures in the park.
- Persons seeking an authorization are not precluded from also submitting proposals for concessions contracts.
- CUAs may not have a term of more than two years.
- Businesses that hold a CUA do not have a preferential right of renewal.
- CUA holders must conform to the terms and conditions of their authorizations, including operating plans.

CUA PROGRAM

The NPS uses CUAs to authorize businesses to provide suitable services that are consistent with the park’s mission. CUAs are managed and impacts will be monitored to ensure protection of park resources. Comprehensive financial reporting requirements improve cost recovery and the collection of reasonable fees.

Program Objectives

The NPS identified the following objectives for the CUA program:

- The application process is open to new businesses.
- Qualified businesses provide suitable services to visitors.
- Operating plans for each service to minimize impacts to park resources.
- Monitor resources and operators.
- Enforce of Federal regulations and operating plan provisions and requirements.
- The number of CUAs is limited when necessary to protect park resources.
- The fee schedule to ensure the payment of a reasonable fee.

- Limit the liability of the Federal Government arising from any CUA.
- Consolidate services to fewer categories.
- Phase in the program changes over a two-year period.

Program Highlights

The Operating plan for each service category is written to minimize resource impacts and optimize visitor safety and satisfaction. The plan includes methods to ensure minimal impacts through limits on group size, number of trips, etc. Operating plans are reviewed annually and updated as necessary.

If, in the future, a service must be limited due to resource impacts, qualified applicants will be selected through a competitive process.

The service categories currently are consolidated into the following 11 categories. All categories are considered to be “guided, interpretive trips and tours”

- **Biking** - The CUA for Biking allows the CUA holder to conduct guided road-based bicycle tours and front country hiking on boardwalk areas and trails less than ½ mile from the road.
- **Day Hiking** - The CUA for Day Hiking allows the CUA holder to conduct guided interpretative day hiking.
- **Skiing/Snowshoeing** - The CUA for Skiing and Snowshoeing allows the CUA holder to conduct guided interpretative nordic skiing, telemark skiing and snowshoeing trips.
- **Motorized Boating** - The CUA for Motorized Boating allows the CUA holder to conduct guided touring or fishing trips in larger motorized boats on Yellowstone Lake and/or Lewis Lake. Portions of Yellowstone Lake, and all of Shoshone Lake are restricted to non-motorized boats.
- **Non-motorized Boating** - The CUA for Non-Motorized Boats allows the CUA holder to conduct guided touring using dories, single or tandem kayaks, canoes and other small non-motorized vessels in Yellowstone, Lewis and Shoshone Lakes.
- **Overnight Backcountry** - The CUA for Guided, Overnight Backcountry Trips allows the CUA holder to conduct guided overnight hiking, skiing, and/or snowshoeing trips with an appropriate backcountry permit.
- **Painting and Photography** - The CUA for Painting and Photography allows the CUA holder to conduct road based photography tours and instruction and/or painting instruction. Limited front country hiking on boardwalk areas and designated trails less than ½ mile from the road is permitted. Hiking to Trout Lake is also permitted.
- **Stream and Shoreline Fishing** - Commercial Stream and Shoreline Fishing allows the CUA holder to conduct guided walk and wade fishing trips in park streams and lakes. Float tubes use in lakes is permitted with this CUA. Use of boats (including pontoon boats) is not authorized and requires a separate CUA.

- **Road-based Transportation, including Step-On Guide and Shuttle Service** - The CUA for road-based transportation service allows the CUA holder to conduct a vehicle tour, provide shuttle service, and act as a step-on guide, on paved park roads with visits to facilities and services in combination with short walks on boardwalks, frontcountry roads, and trails
- **Towing**
- **Other miscellaneous suitable visitor services** (locksmith, RV repair, water access, etc.) as approved by the Superintendent

Only businesses that are located in gateway communities¹ and use vehicles with a maximum capacity of 25 people are eligible for a road-based transportation CUA. All other businesses offering road-based transportation enter the park by paying the commercial tour fee.

The CUA holder must ensure the public health and safety and provide satisfactory services for park visitors. The CUA holder must provide all visitor services in a manner that is consistent with and supportive of the park's interpretive themes, goals and objectives.

NPS staff monitors CUA services for adherence with the terms and conditions of the authorization and its operating plan. Staff will also monitor the impacts on cultural and natural resources, public safety, and public health. They may evaluate the CUA holder's interpretive and informational services to ensure accuracy, quality, and appropriateness to park themes.

Implementation

- The CUA application period is open for all. Applicants may apply from October 1, to March 1.

Application Process

All applicants must submit a complete Commercial Use Authorization Application. Applicants for any service category (or categories) other than Towing and Other Miscellaneous Suitable Visitor Services must also complete the Experience Questions. Complete application packages will be reviewed by park staff. NPS will issue the CUA to qualified applicants for a two-year term.

NPS will evaluate the application by the following criteria:

- Operator qualifications to provide the service or services identified
- Reduction or minimization of resource impacts

¹ Service must originate in a park gateway community. Gateway communities include West Yellowstone, Big Sky, Bozeman, Livingston, Gardiner, and Cooke City, Montana; Cody and Jackson, Wyoming; and Idaho Falls, Idaho.

- Visitor safety
- Visitor experience
- Interpretive knowledge
- Managerial and operational experience
- Administrative requirements (proof of insurance, acknowledgement of risk form, Internet site, brochures, advertisement, etc.)

Fees

Application Fee: A non-refundable annual fee of \$300 for each service category is submitted with the completed application.

Additional Fee: A percentage of gross receipts will be due by January 31 each year with the year-end annual report.

- Businesses with gross annual receipts of less than \$250,000 will pay 3% of their gross receipts.
- Businesses with gross receipts between \$250,000 and \$500,000 will pay 4% of their gross receipts.
- Businesses with gross receipts greater than \$500,000 will pay 5% of their gross receipts.

“Gross receipts” means the total amount of all revenues received from services offered within Yellowstone National Park, excluding services provided by other concessioners. Those services might include transportation, lodging and meals.

Services conducted outside the park are not included in the gross receipts when calculating the percentage to be assessed as a fee. The total fee includes overhead, planning, commissions, etc. which is prorated in gross receipts.

Accounting Records and Reports

The CUA holder shall maintain an accounting system under which accounts can be readily identified with its system of accounts classification. Such an accounting system shall be capable of providing the information required under this CUA. The NPS will provide blank, fillable annual reports.

- By January 31, all CUA holders must submit an annual report for the preceding operating year.
- A CUA holder whose annual gross receipts are \$250,000 or more must use the accrual accounting method.
- If annual gross receipts are less than \$500,000, the annual financial statement may be prepared without an independent CPA.

- If annual gross receipts are from \$500,000 to \$1,000,000, the annual financial statement must be reviewed by an independent CPA.
- If annual receipts are more than \$1 million, the annual financial statement must be audited by an independent CPA.

Closure of areas in the park because of fire, severe weather, or the need for resource protection, or other circumstances that may prevent a CUA holder from providing a service are not reimbursable events.

COMPLIANCE

Authorization Compliance

CUA holders and their guides must comply with all requirements of the Commercial Use Authorization and its associated appendices or exhibits. Written approval from the Superintendent must be obtained prior to any deviation from these requirements.

A CUA may not be sold or transferred. If a change in ownership or majority stock holder occurs, the CUA will be considered terminated and the new operator/business must submit an application for a new authorization during the open CUA application season.

The CUA holder must provide the NPS with a Certificate of Liability Insurance with the required amount of coverage.

Reporting documents will, at a minimum, include a list of guides and dates of standard first-aid and CPR certification, monthly use reports, annual financial statements, rate sheets, and brochures.

The NPS is not responsible for lost business due to closures or a revocation of the authorization.

Program Compliance

NPS concessions management staff will review the CUA program annually and, if necessary, recommend changes to park management. If public health or safety concerns or imminent impacts to park resources are anticipated, changes may be implemented immediately.

NPS staff will monitor resources and evaluate CUA operations. Typically evaluations will consist of contact by a Concession Management Specialist, Park Ranger or other NPS representative at a campsite, trailhead, or on a park road. Evaluations may also be done by internet site reviews and visitor feedback.

The NPS will collect information to determine the need to limit use based on documented resource concerns or impacts. The NPS may also limit use of a specific activity by time period, area, and number of trips, user days, and/or party size. Instances of service interruption or area closure may occur due to weather closures, fire closures or resource protection.

Environmental National Policy Act Compliance

The plan has been excluded from further National Environmental Policy Act compliance by the following Categorical Exclusion as listed in NPS Director's Order 12: "Incidental business permits (which have been replaced by commercial use authorizations) involving no construction or potential for new environmental impacts."

Commercial Use Authorization Program Changes

Actions	CUA Program
Applications	CUA applications are accepted for all service categories.
Service Categories	<ul style="list-style-type: none"> Biking Day hiking Skiing/Snowshoeing Motorized boating Non-motorized boating Overnight backcountry trips Photography Stream and shoreline fishing Road-based transportation Towing RV Appliance Repair Locksmith Water Access
Application Period	Applications accepted from October 1 to March 1 for two-year term beginning on January 1 of issuing year.
Authorization Fee	\$300 annually for each service category
Additional Fee	2%, 3%, 4%, or 5% of annual gross receipts, depending on income.
Road-based Transportation Services	Per person entrance fee if using \leq 25-person capacity vehicles and originating from gateway communities.
Financial Reporting	<ul style="list-style-type: none"> Gross receipts \geq \$250,000, use accrual accounting. Gross receipts from \$500,000 to \$1 million, statement must be reviewed by a CPA. Gross receipts $>$ \$1 million, statement must be audited by a CPA.
Monitoring / Evaluations	Improved monitoring and evaluation of the services.