



United States Department of the Interior
NATIONAL PARK SERVICE
Washington, DC 20240

IN REPLY REFER TO:

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Date: November 25, 2003

Memorandum

To: Director, Facility Management Division
Associate Directors of Administration (Attn: Contracting/Procurement Personnel)
Harpers Ferry Administration (Attn: Contracting/Procurement Personnel)
Denver Service Center Administration (Attn: Contracting/Procurement Personnel)

From: Manager, Washington Contracting and Procurement / s /

Subject: Standard operating procedures for public utility tariff contracting

The Washington Contracting and Procurement Office (WCP) Denver has been issued a Delegation of Authority from the Director, Public Utilities, General Services Administration (GSA), for award of public utility service and connection contracts for the National Park Service (NPS). This delegation cannot be re-delegated.

Construction/installation contracts, public utility purchase orders, GSA area wide public utility contracts, and separate NPS public utility contracts will be used for all public utility procurements. To ensure timely award of proper public utility contract actions, WCP has developed this standard operating procedure (SOP).

This SOP applies to all public utility contract actions, whether oral or written, without regard to dollar value or customer location (i.e., park, regional office, service center). This SOP does not apply to requirements for temporary connections or service that occur during construction projects. Such temporary connections or service are the responsibility of the general contractor.

This SOP was developed consistent with the following references:

- 16 U.S.C. 1, National Parks, Military Parks, Monuments and Seashores
- FAR Part 41, Acquisition of Utility Services
- National Environmental Policy Act (NEPA)
- National Historic Preservation Act (NHPA) Section 106
- Management Policies of the National Park Service

- Director's Order 28B (DO28B), "Archeology"
- Director's Order 53 (DO53), "Special Park Uses"
- GSA delegation of authority to NPS for awarding public utility service and connection contracts

1. NEPA/NHPA compliance

Compliance within park boundaries

The Superintendent/Regional Office is responsible for ensuring a proposed project complies with NEPA/NHPA section 106. If the designated utility corridor has been previously disturbed, and it was determined then that NEPA/NHPA section 106 compliance did not apply, the Superintendent/Regional Office may execute a "categorical exclusion" for the proposed project. Copies of the compliance or categorical exclusion will be forwarded to WCP before any further steps towards public utility design or installation can begin.

Compliance outside of park boundaries

In the event it is necessary to spend appropriated or donated funds to contract with the public utility to extend its distribution system from outside the park unit boundary to inside the boundary and provide service to the NPS, compliance within the park unit boundary must have been completed before design or installation of the public utility can begin to ensure the public utility has a compliant point to enter the park.

A letter request for cost proposal (LRFP) with a preliminary set of drawings prepared by the customer will then be sent to the public utility for the utility's use to prepare a cost proposal for design and installation. The LRFP must include the state's requirement (if applicable) for environmental and historic compliance for the utility corridor outside of the park boundary.

The WCP Public Utilities Contracting Officer (CO) will award an initial contract to the utility for design associated with the state's compliance requirements. The utility must be under contract to incur costs for obtaining the state's environment and historical requirements.

The utility is to forward copies of completed environmental and historical compliances to the NPS's compliance personnel. NPS's compliance personnel will use this information to complete NEPA and NHPA section 106 requirements. After NPS completes required NEPA and NHPA compliance on the utility corridor, a notice-to-proceed will be issued to complete the utility's design.

NPS is responsible for reviewing the utility's design and providing comments as to facility placement **within** the park unit boundary and **within** the approved utility corridor. The utility has sole authority to design and place utility's facilities outside of the park boundary.

2. Non-exclusive right-of-way permit

Through this permit, the Government gives a utility company the right to enter federal land in order for the utility company to operate and maintain its utility system.

This provision applies to all public utility, telephone and cable TV (CATV) connections/installations, regardless of cost. It does not apply to natural gas or oil lines.

Any park unit that currently has public utility-owned utility systems inside their boundary is required to issue a non-exclusive right-of-way permit in accordance with DO53. Any park that has issued a right-of-way permit that is not in conformance with DO53 may continue performance under the existing right-of-way, but may not extend or renew the right-of-way permit. For all utility-owned facilities, the Superintendent/Regional Director is responsible for preparing and issuing a non-exclusive right-of-way permit in accordance with DO53.

3. Customer general responsibilities

The following responsibilities are applicable to all public utility contracts for connections/installation, gas connections/service, telephone connections/installations, CATV connections/installations, public utility service, E-Net Metering and Bill of Sale contracts. Any additional or special customer responsibilities will be listed under that utility requirement.

- Notify the WCP Utilities CO of customer requirement and name of public utility company, which may also include municipalities, county governments, and or state governments
- Consult with the WCP CO to discuss initial contact with the public utility to gather information to initiate a LRFPP and obtain and furnish the name of the public utility point of contact
- Provide a government estimate, and procurement request (PR) in IDEAS based on the Government estimate
- Assist the WCP Utility CO in preparing the scope of work and the LRFPP
- Assist the WCP Utility CO in negotiating the award documents
- Modify the PR to reflect award amount
- Provide the WCP CO with a qualified COR and technical support

4. WCP CO general responsibilities

The following responsibilities are applicable to all public utility contracts for connections/installation, gas connections/service, telephone connections/installations, cable TV

connections/installations, public utility service, E-Net Metering and Bill of Sale contracts. Any additional or special WCP responsibilities will be listed under that utility requirement.

- Assist the customer in developing the statement of work
- Issue LRFPP
- Lead and document negotiations; prepare appropriate contract documents
- Award/administer all public utility procurement documents

The WCP Public Utility Contracting Officer's address, telephone and facsimile numbers are as follows:

National Park Service
P.O. Box 25287 (WCP)
Denver, Colorado 80225
Phone: (303) 914-3808
Fax: (303) 914-3812 or -3811

5. Utility-Specific Procedures:

Gas Connections/Installation/Gas Service

In order to perform a gas connection/installation for NPS and concessionaire facilities, a ten-year gas service contract for the purchase of the gas will be required. The gas service contract will include a contract non-exclusive right-of-way, which will only be effective for the ten-year contract period. At the end of the ten-year contract period, a new service contract with a contract non-exclusive right-of-way will have to be issued, in accordance with DO53. The NPS does not have statutory authority to issue non-exclusive right-of-way permits for pipelines transporting or delivering petroleum products or natural gas to NPS facilities. The contract non-exclusive right-of-way may not be used or extended to serve non-NPS facilities, and does not convey any interest in NPS lands to the gas utility. The contract non-exclusive right-of-way will be subject to environmental, cultural, historical and restoration requirements.

Telephone Connections/Installation

FAR does not classify telephone service as "utilities," and so cannot be subject to FAR Part 41. Contracting for telephone service is, however, subject to other relevant Parts of FAR. The WCP Utilities CO will provide customers telephone connection contracts for the regulated side of telephone connections. This means that the customer will be required to contact their regional telephone coordinator prior to contacting the WCP CO for telephone connections/installations. The regional telephone coordinator will assist in providing the telephone line requirements

needed for telephone service. Contracts for telephone connections will be issued to the telephone company owning the telephone grid and having the approved franchise for that area.

The WCP cannot contract for telephone service.

CATV Connections/Installation

The FAR does not classify CATV as “utilities” and so is not subject to FAR Part 41. Contracting for these services is, however, subject to other relevant FAR Parts.

The WCP CO will provide customers with a cable TV connection contract for the regulated side of CATV. The customer must provide WCP with the name of the CATV company with the approved franchise to furnish and install CATV.

NPS-Owned Utility Systems

In park units where NPS owns the utility distribution system and will retain ownership, the NPS is responsible for the system's operation and maintenance, replacement or upgrade, and demolition and removal through competitive contracting or in-house resources. In accordance with FAR Part 41, the NPS may not contract with a public utility as sole source to perform NPS's responsibilities. Additionally, in accordance with DO53, non-exclusive right of way permits are not required for NPS-owned utilities.

However, if the NPS would prefer the utility to own the NPS-owned utility distribution system, and the utility agrees, NPS may contract, under sole source authorities, with the authorized public utility that is serving the NPS, for replacement or upgrade, demolition and removal of the NPS-owned distribution system in the upgrade, and the utility would own the replacement or upgrade. The Superintendent would be responsible for issuing a non-exclusive right-of-way permit, excluding gas connections in accordance with DO53 (see "Gas Connections"). If NPS-owned distribution systems contain hazardous materials, the NPS is responsible for removal and disposal of the hazardous materials before allowing the utility to demolish and dispose of the distribution system.

Many of the NPS park units have existing telephone and CATV lines inside of their boundaries. Some of the telephone and CATV distribution systems are owned by the NPS. In those cases, NPS is responsible for the upgrades or relocation. If NPS has a requirement to upgrade and/or relocate NPS-owned telephone and CATV distribution systems and would like the utility to own the system, NPS can contract with the approved telephone or CATV company that has the approved franchise for that area. This is provided the company agrees to contract and own the distribution system, and the company would own the upgrade or relocated distribution system. As NPS upgrades utility-owned telephone distribution systems to include fiber optics or to relocate power poles that have telephone and CATV, NPS must contract separately with each telephone and CATV company who owns the distribution system to make changes to their distribution systems and comply with re-location tariffs. The same requirement applies if NPS needs a new telephone and CATV connection.

If the NPS has an NPS-owned telephone or CATV distribution system and would like the utility to own the system as is, the NPS must formally inquire as to the utility's conditions for ownership transfer. If the utility agrees to own the utility system, ownership transfer must be accomplished by a contract bill of sale for ownership transfer (see below). It is NPS policy to place all utilities underground and in a common trench whenever possible to minimize impact on natural resources.

Public Utility Service

This refers to furnishing electric, water, gas, etc., service. The customer is to provide the WCP CO with:

- the name of public utility company, contact person, and the type of utility service being requested
- information on the areas inside the park unit boundary in which the utility services are required, such as building names and numbers where each meter is located

A customer having either: a public utility service requirement exceeding one year; a natural gas connection (see Gas Connections/Installations/Gas Service) requirement; or an action that exceeds the simplified acquisition threshold over a ten-year period (i.e., annual cost x ten years > simplified acquisition threshold), must purchase by contract and follow procedures outlined herein.

Park units that have existing cooperative agreements in place to purchase utility service may continue to purchase such services under the agreement until it expires, but may not extend or renew the agreement. Upon the agreement's expiration, a public utility service contract will be required.

E-Net Metering

E-Net metering is an electric service that contains NPS-owned distributed energy sources (i.e. photovoltaic or wind) electric generating system that is connected to the public utility company's electrical grid by a special electric meter that meters utility company energy and NPS power generation. For billing purposes, the meter is normally read only once per year.

If a park unit has a requirement for E-Net metering services, the park unit will coordinate the request through the region's energy coordinator before contacting the WCP CO. No consideration will be given, or E-Net Metering services ordered, unless the public utility has an approved tariff from its governing body for special E-Net metering rates.

If a GSA area wide public utilities contract is not available, a separate contract will be issued, not to exceed ten years.

Bill of Sale Contract for Ownership Transfer

A Bill of Sale Contract is issued under the authority of Title 16 U.S.C. 1b(6), to sell NPS-owned utility systems to a public utility company for consideration. Consideration can be operation, maintenance, repair, relocation, service, upgrade, replacement, etc. and does not necessarily have to include monetary reimbursement to the NPS from the public utility company. The bill of sale for ownership transfer contract is not awarded under FAR. The contract can include monetary payment as an incentive for the public utility company to upgrade and own the facility system. Sometimes the utility company requires payment for additional cost of ownership above the upgrade cost.

Each bill of sale contract for ownership transfer must be reviewed by the Solicitor's Office, and be signed by the WCP utilities CO and the Owner. The officer signing for the Owner cannot be lower than the Regional Director.

Individual park units, Regional Offices and the Denver Service Center are not allowed to construct a government-owned utility system by competitive construction procedures and give title of the NPS-owned utility system to the public utility company without a bill of sale contract for ownership transfer.

If it is the intent to have a public utility own a utility system within the park unit boundary, Chapter 9 of the Management Policies of the NPS requires that contract negotiations with the public utility to design and build the utility facility within the park unit boundary be first attempted, before NPS designs and constructs the utility facility by competitive construction procedures. If this fails, but the utility agrees to own the utility facility after NPS designs and builds the utility facility to the specifications of the utility, then the WCP CO will proceed with negotiating a bill of sale contract for ownership transfer.

Electric and Natural Gas De-Regulation

In the event a state has de-regulated a utility, the GSA will provide NPS with direction to address de-regulation. As a state de-regulates, customer (if interested) will contact the WCP CO. The WCP CO will approach GSA to inquire as to the possibility of the customer participating in a consolidated utility buy (if GSA has a consolidated buy in progress), or to act on behalf of the Customer with an interagency agreement to participate in a Government consolidated buy. These buys are regulated by the GSA and are awarded for one-, two-, or three-year terms.

In accordance with FAR Part 41, GSA will compete available utility generators, and make the award on NPS's behalf. Individual park units are not authorized to switch to another utility supplier without participating in the GSA consolidated buy.

Customers must contact the WCP CO if they believe the state in which their park unit is located has been de-regulated. Upon receipt of such request, the WCP CO will forward the request to GSA for consideration. If GSA represents the NPS in gas or electric buys, the NPS will be required to sign utility release forms, prepared by GSA, which will enable GSA to obtain power and gas data from the existing utility.