

Historic Property Lease Management Policies, 2006

8.12 Leases

In accordance with 36 CFR Part 18, the National Park Service may enter into a lease for the use of any park property—historic or nonhistoric (except nonhistoric land)—if the following determinations are first made by the appropriate regional director (who may redelegate this authority to superintendents):

- (1) The lease will not result in degradation of the purposes and values of the park area.
- (2) The lease will not deprive the park area of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration.
- (3) The lease contains such terms and conditions as will ensure that the leased property will be used for an activity and in a manner that are consistent with the purposes established by law for the park area in which the property is located.
- (4) The lease is compatible with NPS programs.
- (5) The lease is for rent at least equal to the fair market value rent of the leased property.
- (6) The proposed activities under the lease are not subject to authorization through a concession contract, commercial use authorization, or similar instrument.
- (7) If the lease includes historic property, the lease will adequately ensure the preservation of the historic property. (In addition, a lease that includes historic property may be executed by the Park Service only after compliance with the CFR Part 800, the commenting procedures of the Advisory Council on Historic Preservation).

It is likely that lease uses will be permissible under paragraph (6) if

- the leased property where the proposed services are to be provided is not near a particular visitor destination of the park area, and
- the patrons of the lessee are expected to be primarily persons who come to the park area only to use the lessee's services.

8.12.1 Additional Criteria

- All leases must be at fair market value.
- The term of the lease will be the shortest time needed for the proposed use, taking into account required lessee investments and other factors related to determining an appropriate lease term.
- No lease will exceed 60 years.
- Lease terms may not be extended except that leases with a term of one (1) year or more may be extended once for a period not to exceed one (1) additional year if it is determined that an extension is necessary because of circumstances beyond NPS control.

8.12.2 Prior Approval

No lease instrument may be awarded or amended without prior written approval by the Solicitor's Office.

Prior to their execution by a regional director or superintendent, the Director must approve—

- proposed leases with terms of more than ten (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 Director's approval prior to execution.

8.12.3 Noncompetitive Awards

The Service generally may not enter into a Part 18 lease without issuing a Request for Bids or a Request for Proposals. The Service may, however, enter into Part 18 leases on a noncompetitive basis in two circumstances:

(1) The Part 18 lease is with a nonprofit organization or a unit of government and the Service determines that the nonprofit or governmental use of the property will contribute to the purposes and programs of the park area; or

(2) The lease is short-term (sixty (60) continuous days or less) and the Service determines that to award the lease noncompetitively is in the best interests of the administration of the park area. This authority is not limited to nonprofit organizations or units of government; any qualified person or entity may be awarded a lease with a term of sixty (60) days or less. These leases cannot require any rehabilitation or improvements to the applicable property.

Noncompetitive leases must in all other ways meet the requirements of 36 CFR Part 18 and Director's Order #38: Real Property Leasing.

8.12.4 Historic Properties

If a lease agreement requires or allows the lessee to maintain, repair, rehabilitate, restore, or build upon historic property, the work must be done in accordance with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* and other NPS policies, guidelines, and standards.