OMB Control No. 1024-0268
Exp. Date: 08/31/2016

APPLICATION INSTRUCTIONS
COMMERCIAL USE AUTHORIZATION

The following explanations correspond directly with the numbered items on the Application Form. Please read this entire document prior to completing the application. Include the nonrefundable application fee when submitting this application.

1. Enter the service you are proposing to provide. These are the services which are currently approved in the park:

   Please see appendix for additional guidance.

2. Respond "No" or list other parks where you will be providing this service.
3. Enter the legal name of your business. If you have a secondary name under which you are doing business (d.b.a.), please enter that name also.
4. Give the name(s) of persons designated as Authorized Agents for your business. This may include the on-site general manager responsible for day to day operations.
5. Provide contact information for both the main season and the off-season. Over the term of your authorization, it may be necessary to contact you to obtain or share information. Your contact information may also be published in the NPS Commercial Services Directory.
6. Check the box that identifies your type of business.
7. If the state in which you operate or the state where your business is domiciled requires a state business license, provide the license number and year of expiration.
8. Provide your Employer Identification Number (EIN). The Debt Collection Improvement Act of 1996 requires us to collect an EIN or Social Security Number (SSN). The NPS will not collect SSNs, only EINs. The EIN is issued by the Internal Revenue Service. You may receive a free EIN at **http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/How-to-Apply-for-an-EIN**. We will use the EIN that you provide as needed to collect debts.
9. Provide proof of General Liability Insurance naming the United States of America, National Park Service, as additionally insured in the amounts designated in the application.
10. NPS Management Policy prohibits employees of the NPS and their spouses and minor children from acquiring or retaining any authorization for conducting commercial services in a park area.
11. If your business or business owners or current employees or proposed employees have been convicted or are currently under charges for violation of State, Federal, or local law or regulation in the last 5 years, please give details (does not include minor traffic tickets).
12. Include payment of the Application/Administrative Fee.
13. Please sign and date your application. If the person SIGNING this application is not an Authorized Agent for the business, proof of signing authority must accompany this application.

Additional Information:

The National Park Service has terms and conditions on all commercial service agreements. The following terms and conditions will apply to all Commercial Use Authorizations. There may be additional terms and conditions based on the services provided. These may include but are not limited to limits to locations, times, group size, and employee licenses and certifications.

CONDITIONS OF THIS AUTHORIZATION

1. The holder is prohibited from knowingly giving false information. To do so will be considered a breach of conditions and be grounds for revocation: [RE: 36 CFR 2.32(a)(3)].

2. The holder shall exercise this privilege subject to the supervision of the park area Superintendent. The holder shall comply with all applicable laws and regulations of the area and terms and conditions of the authorization. The holder must acquire all permits or licenses of State or local government, as applicable, necessary to provide the services described above, and, must operate in compliance with all applicable Federal, State, and local laws and regulations, including, without limitation, all applicable park area policies, procedures and regulations. The commercial services described above are to be provided to park area visitors at reasonable rates and under operating conditions satisfactory to the park area Superintendent.

3. This authorization is issued upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, injuries, or death to any person or persons or property of any kind whatsoever, whether to the person or property of the (holder), its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this authorization or occasioned by any occupancy or use of said premises or any activity carried on by the (holder) in connection herewith, and the (holder) hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents, and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.

4. Holder agrees to carry general liability insurance against claims occasioned by the action or omissions of the holder, its agents and employees in carrying out activities and operations under this authorization. The policy shall be at least $1,000,000.00 and naming the United States of America, as additional insured. Holder agrees to have on file with the park copies of the above insurance with the proper endorsements.

5. Costs incurred by the park as a result of accepting and processing the application and managing and monitoring the authorization activity will be reimbursed by the holder. Administrative costs and estimated costs for activities onsite must be paid when the authorization is approved. If any additional costs are incurred by the park, the holder will be billed at the conclusion of the authorization.

6. Benefit – Neither Members of, nor Delegates to Congress, or Resident Commissioners shall be admitted to any share or part of this authorization or derive, either directly or indirectly, any pecuniary benefit to arise therefrom: Provided, however, that nothing herein contained shall be construed to extend to any incorporated company, if the authorization be for the benefit of such corporation.
7. This authorization may not be transferred or assigned without the written consent of the park area Superintendent.

8. This authorization may be terminated upon breach of any of the conditions herein or at the discretion of the park area Superintendent.

9. The holder is not entitled to any preference to renewal of this authorization except to the extent otherwise expressly provided by law. This authorization is not exclusive and is not a concession contract.

10. The holder shall not construct any structures, fixtures or improvements in the park area. The holder shall not engage in any groundbreaking activities without the express, written approval of the park area Superintendent.

11. The holder is to provide the park area Superintendent upon request (and, in any event, immediately after expiration of this authorization) a statement of its gross receipts from its activities under this authorization and any other specific information related to the holder's operations that the park area Superintendent may request, including but not limited to, visitor use statistics and resource impact assessments.

12. The holder is to maintain an accounting system under which its accounts can be readily identified within its system of accounts classification. This accounting system must be capable of providing the information required by this authorization. The holder grants the United States of America and the Government Accountabiity Office access to its books and records at any time for the purpose of determining compliance with the terms and conditions of this authorization.

13. Executive Order 13658 – Establishing a Minimum Wage for Contractors, and its implementing regulations, including the applicable contract clause, are incorporated by reference into this contract as if fully set forth in this contract. The applicable contract clause is available at https://federalregister.gov/a/2014-23533.

APPENDIX
Additional Guidance
COMMERCIAL USE AUTHORIZATION

Does the National Park Service consider you a commercial entity?
Your organization is considered a commercial entity if you provide goods, services, activities, or other things to the public using National Park Service (NPS) lands and you receive any form of compensation for the things you provide. The NPS does distinguish between commercial and non-profit organizations. A non-profit organization is one that has been determined by the Internal Revenue Service to be exempt from federal income taxation as a nonprofit or not-for-profit organization under the terms of the Internal
Revenue Code. If an organization can provide documentation that it will derive no taxable income from activities in the park, a CUA will not be required. However, a non-profit organization is required to obtain a Special Use Permit for the activity and pay any required associated cost recovery when engaging in activities on park lands.

What are the criteria for the Commercial Use Authorization?
First of all, does the activity fit the park? It must be appropriate to the mission of the park, compliment resource protection, visitor protection and interpretation goals, and not pose any potential for derogation of values or purpose for which the park was established. The activities must be consistent with the park's future plans as well as present operations. They should be compatible with the planning documents for the park.

The park will not normally limit the number of organizations that offer similar services or activities. However, the Superintendent will not issue more CUAs than are consistent with the preservation and proper management of park resources and values. If the demand for the activity is overwhelming, the NPS may establish controls. Some examples of controls include designation of areas for commercial use, or establishment of area carrying capacities or a reservation system. If needed, the NPS may also establish
procedures to assure a balance between commercial and non-commercial use. Additionally, the park cannot guarantee that park facilities will be available every day for every CUA holder and may establish group size limitations.

Types of CUAs.

In-park services refer to an operation with annual gross receipts of not more than $25,000 from commercial services originating and provided solely within a park area.

Out-of-park services refer to the incidental use of park area resources by operations that provide commercial services originating and terminating outside of the park area. A CUA of this type does not authorize solicitation of customers, sales or payment for commercial services to take place within the park area – all of these activities must occur outside of the park area. Unlike a CUA for in-park services, there is no cap on the annual gross receipts that may be generated by the authorized services under an out-of-park CUA. Compensation or payment for services (even tipping) may not occur on NPS lands.

CUAs do not authorize the construction of structures on NPS lands, either temporary or permanent.

What costs are involved?

The cost for issuing a Commercial Use Authorization is **$200.00**, and the authorization in effect for one year. Short-term CUAs are available to long-distance entities for a three-month period at a cost of **$50.00**. Commercial single events will be determined on an individual basis.

If the NPS incurs costs as a result of the authorized activities, the CUA holder is held responsible for reimbursement of those costs. For group use or special events other than authorized on an approved CUA, the CUA holder obtains a Special Use Permit and pays the same application/administrative charge and monitoring costs as other special event permittees.

If the activity has a potential for resource disturbance or damage, the NPS may require the CUA holder to post a refundable performance bond. The bond is set at an amount adequate to cover the cost of cleanup or repair of damage to resources, including personnel or contract costs. At the end of the authorization year, the bond is returned if it was not needed.

What is involved in the CUA?

Each Commercial Use Authorization includes the following provisions:

Copy of Certificate of Liability Insurance coverage is required with the United States of America named as Additionally Insured.

The CUA holder must meet all state, county and local agency requirements for permits, licenses and business operations. All food and beverage services must meet public health standards.

CUA holder is required to provide IRS taxpayer identification number on the CUA application.

The NPS requires prior approval of out-of-park advertising for activities to occur on park lands. The CUA holder shall not use advertising that attempts to portray them as agents of the NPS, or to use NPS symbols, seals, or other items of identity.
Solicitation and commercial advertising is prohibited on park lands, including hanging or posting signs, banners and flyers.

The organization/CUA holder will provide the superintendent a statement of its monthly gross receipts, visitor use statistics and resource impact assessments.
Go to: **http://www.nps.gov/neri/planyourvisit/permits.htm** to print the report form.

The NPS will designate an individual to whom the CUA holder will report any accidents, injuries or damages related to the authorization. The NPS liaison will be the individual providing the CUA holder with NPS emergency or site closure information.

The CUA holder will provide a method for NPS field personnel to quickly and easily identify the CUA holder's staff when on NPSproperty.

Some activities authorized under a CUA must be scheduled in advance to avoid conflict with other park uses.

The CUA will indicate the areas of the park in which the CUA holder may conduct activities and the types of activities covered in the CUA.

What are some examples of activities which may be permitted under a Commercial Use Authorization?

Rock climbing services (go to **http://www.nps.gov/neri/planyourvisit/permits.htm** for climbing CUA application/group size limitations/guide certification guidelines)
Bicycle rentals and tours
Hiking tours
Horseback riding tours/services
Tours
Swiftwater rescue training

Where can I get more information?
Contact the office of the Program Specialist for Commercial/Special Park Uses at 304-465-6517 to request a Commercial Use Authorization application or go to **http://www.nps.gov/neri/planyourvisit/permits.htm** to print the Commercial Use Authorization application form.

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APPLICATION FORM
COMMERCIAL USE AUTHORIZATION

DEPARTMENT OF THE INTERIOR
National Park Service
New River Gorge National River
Gauley River National Recreation Area
Bluestone National Scenic River
Attention: Shawn Robinson
P.O. Box 246
Glen Jean, WV 25846
304-465-6517

IMPORTANT: Before completing this application, please refer to the Application Instructions to verify that the service you are proposing is an approved commercial service. If the service you wish to provide is **not** listed on the table of approved commercial visitor services, contact us at the number above. Please submit your application fee of $ with this application.

Some parks have minimum requirements for businesses that offer services to visitors relating to the safety and welfare of the visitors and protection of the resources. These requirements may include documentation of first aid training, an emergency response plan, limits to group size, etc.

(1) **Service for which you are applying**
(See list of approved services in the attached instructions)

_____

Please Attach The Following Additional Information:

a. Current Brochures (two examples, if applicable)
b. Advertising Materials
c. Description of client charges and fees (what client fees cover). Attach Rate Sheet.
d. Documentation of Insurance Coverage (Certificate of Insurance) meeting NPS CUA requirements
e. Assumption of Risk Form (if used)
f. Description of Proposed Service. Please include: season or main period of operation, who is your client/audience, services offered to clients, location, frequency, party size, does this service include the use of motorized equipment or stock animals?
g. Trip Itineraries
h. Guide Identification. Please identify all guides who would be working under your authorization. Attach copies of current resumes for Lead Guides. (Include a statement addressing your requirements for employment, staff training programs, etc. Include a copy of guide's current CPR/First Aid cards. Notification must be given in writing of any staffing changes during your operating season.)
i. Safety Plan. (Including, but not limited to evacuation and emergency procedures, contact points, use of cellular phones, first-aid equipment and training, etc.)

(2) **Will you be providing this service in more than one park? Yes ___ No ____ If yes, list all.**

_____

(3) **Applicant** **(Legal Business Name and DBA)**

_____

(4) **Authorized Agents** (Owner and any onsite person authorized to manage the operation)

_____

(5) **Mailing Address:**

PRIMARY CONTACT INFO (Dates at this address _____)

Address: _____

City, State, Zip: _____

Email: _____

Website: _____

Day Phone: _____ Evening Phone: _____

Fax: _____

ALTERNATE CONTACT INFO (Dates at this address _____)

If same as "Primary Contact Info", check here ☐ and go to number (6).

Address: _____

City, State, Zip: _____

Day Phone: _____ Evening Phone: _____

Fax: _____

(6) **What is your Business Type** ***(Please check one below)***:

☐ Sole Proprietor

☐ Partnership *(Print the names of each partner. If there are more than two partners, please attach a complete list of their names.)*
(Name _____)

(Name _____)

☐ Corporation: (State: _____ Entity Number_____)

☐ Limited Liability Corporation: (State: _____ Entity Number_____)

☐ Non-Profit (Please attach a copy of your IRS Ruling or Determination Letter)

☐ Other (Specify)

(7) **State Business License Number:** _____ Expiration Date: _____

(8) **Employer Identification Number (EIN)** _____

(9) **Insurance and Vehicles**

Provide proof of insurance. The CUA operator must maintain General Liability insurance naming the United States of America, National Park Service as an **additional insured.** Minimum coverage amount is $1,000,000 per occurrence. Auto Liability insurance is also required at a minimum coverage amounts described below.

Number of Passengers	Minimum per Occurrence Liability Limits
Single Purpose Activities (includes day and overnight hiking, photography and art classes, bicycling, and group camping.)	$1,000,000
Up to 5 passengers	$300,000
6 to 12 passengers	$500,000
13 to 20 passengers	$750,000
Over 21 passengers	$1,500,000

Will your business operate vehicles (car, truck, van, bus, taxicab, boats, aircraft etc.) within NPS boundaries____?

Yes ☐ No ☐

If "yes," please give a description of each vehicle. Use additional paper if necessary. All vehicles are required to be registered and the operators are required to have the licenses to operate them commercially as required by law or regulation.

MAKE OF VEHICLE	MODEL	YEAR	MAX # PASSENGERS	OWN	LEASE

MAKE OF AIRCRAFT	MODEL	TAIL NUMBER	MAX # PASSENGERS	OWN	LEASE

MAKE OF WATERCRAFT	MODEL	LENGTH	MAX # PASSENGERS	OWN	LEASE

(10) **NPS Employment**

Are you, your spouse, or minor children employed with the National Park Service?

Yes ☐ **No** ☐ **If Yes, please complete below:**

Employee: _____

Title_____

Park and Office where employed: _____

(11) **To your knowledge, have you, your company, or any current or proposed employees been convicted or fined for violations of State, Federal, or local law within the last 5 years? Are you, your company, or any current or proposed employees now under investigation for any violations of State, Federal, or local law or regulation? See instructions**

Yes ☐ No ☐ If "yes", please provide the following information. Attach additional pages if necessary.

Date of violation or incident under investigation: _____

Name of business or person(s) charged: _____

Please identify the law or regulation violated or under investigation:

_____

Please identify the State, municipality, or Federal agency that initiated the charges:

_____

Additional Detail (optional) _____

_____

_____

(Results) Action Taken by Court_____

(12) **FEE:** Please include the Application/Administrative fee as outlined in the Park-Specific instructions.

(13) **Signature**: False, fictitious or fraudulent statements of representations made in this application may be grounds for denial or revocation of the Commercial Use Authorization and may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001). All information provided will be considered in reviewing this application. Authorized Agents must attach proof of authorization to sign below.

By my signature, I hereby attest that all my statements and answers on this form and any attachments are true, complete, and accurate to the best of my knowledge.

_____ _____

Signature Date

_____

Printed Name

_____

Title

PAPERWORK REDUCTION ACT STATEMENT: In accordance with the Paperwork Reduction Act (44 U.S.C. 3501), please note the following. This information collection is authorized by The Concession Management Improvement Act of 1998 (16 USC 5966). Your response is required to obtain or retain a benefit in the form of a Commercial Use Authorization. We will use the information you submit to evaluate your ability to offer the services requested and to notify the public what services you will offer. We estimate that it will take approximately 2.5 hours to prepare an application, including time to review instructions, gather and maintain data, and complete and review the proposal. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget control number. You may submit comments on any aspect of this information collection, including the accuracy of the estimated burden hours and suggestions to reduce this burden. Send your comments to: Information Collection Clearance Officer, National Park Service, 1849 C Street NW, Mail Stop 2601, Washington, D.C. 20240.