

Prospectus Issues, Including Timing

Issue	NPHA proposal	Interior Proposed Rule	Garden	Van Ness Feldman	Russ Molari Analysis
<p>Prospectus Issues, Including Timing</p>	<p>NPHA did not propose changes in the scoring process for awarding new concessions contracts. However, it did propose changes to NPS policies to provide more transparency in evaluation of offers and in rating of concessioner performance and proposed a new appeals process:</p> <p>Initial Annual Overall Rating Reports must be completed by February 28 of each year. When the Service determines that any item in an Annual Overall Rating Report (Form 10-AOR) is not in compliance, or when the Director otherwise issues a Marginal or Unsatisfactory rating on any of the forms for program areas (Forms 10-ADM, 10-OPR, 10-PHP, 10-RMP, 10-EMP, or 10-AMP), the Director shall provide a detailed written description of the basis for the rating. The concessioner shall then be provided a reasonable opportunity to cure the deficiency before the rating becomes final. This opportunity to cure shall not apply if the agency has previously issued the concessioner a written determination that its performance on this item is not in compliance and the concessioner has been</p>	<p>§ 51.16 How will the Director evaluate proposals and select the best one?</p> <p>(a) The Director will apply the selection factors set forth in § 51.17 by assessing each timely proposal under each of the selection factors on the basis of a narrative explanation, discussing any subfactors when applicable. For each selection factor, the Director will assign a score that reflects the determined merits of the proposal under the applicable selection factor and in comparison to the other proposals received, if any. Each selection factor will be scored along a scale assigned to that selection factor in the prospectus, subject to the following criteria:</p> <p>(1) The maximum score assignable for the fifth selection factor will not be higher than the maximum score for any of the other principal selection factors, with a score of one for agreeing to the minimum acceptable franchise fee contained in the prospectus;</p> <p>(2) The maximum score assignable for the secondary factor set forth in § 51.17(b)(1) will not be higher than the maximum score for any principal selection factor; and,</p>	<p>Changes to scoring methods (§ 51.16): NPS unilaterally proposed to remove the prescribed numerical scores to be used for PSFs and SSFs, and instead imposed general rules for how they would be assigned. Among other changes, franchise fees can now have the same weight as other PSFs and NPS can give more weight to park specific priorities. There does not appear to be any clear basis to object to this proposed change.</p>	<p>Scoring of offers. The proposed rule would change how NPS weighs the five primary selection factors and any secondary selection factors in evaluating the merits of proposals submitted in response to a prospectus. Rather than specifying maximum scores for each selection factor in the regulations, as is current practice, the proposed regulations would give NPS flexibility to set the maximum score of each selection factor on a case-by-case basis, recognizing that some factors may be more important to NPS than others depending upon the contract, subject to the following: the maximum score for the franchise fee factor may not be higher than the maximum score for any of the other principal selection factors; the maximum score for the only enumerated secondary factor (furthering the protection, conservation and preservation of park area and other resources through environmental management programs and activities) cannot exceed the maximum score for any principal selection factor; and the maximum aggregate scores for any additional secondary selection factors cannot be higher than the maximum</p>	

	<p>provided a reasonable opportunity to cure. If the concessioner cures the deficiency within a reasonable time period determined by the Director, the rating shall be adjusted accordingly before becoming the final rating for the AOR. The concessioner has a right to appeal any evaluation rating to the Regional Director pursuant to the process set out in NPS-48 at Chapter 19.</p>	<p>(3) The maximum scores assignable for any additional secondary selection factors set forth in the prospectus will be such that the maximum aggregate score assignable for all additional secondary selection factors will not be higher than the maximum score for any primary selection factor.</p>		<p>score for any primary selection factor.</p>	
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