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(g) The Director will provide the offeror that submitted the best overall responsive proposal as determined by the Director a specified period of time to negotiate the final terms of the lease (and may enter into a letter of intent to negotiate in this connection). The final terms of the lease must be consistent with the requirements of the RFP. If the negotiations do not result in an executed lease within the specified time period, the Director, in his discretion, may extend the negotiation period, terminate negotiations and negotiate with the offeror that submitted the next best responsive proposal, or, cancel the solicitation.

(h) RFPs may state that the amount of rent to be paid will be negotiated subsequently with the offeror that submitted the best proposal, initially or as amended. The Director may execute a lease only if the Director determines that it requires the lessee to pay at least the fair market value rent of the leased property.

(i) The Director may execute a lease that includes historic property only after complying with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation).

§ 18.9 When may the Director lease property without issuing a request for bids or a request for proposals?

The Director, except as provided in this section, may not lease property without issuing a request for bids or a request for proposals in compliance with § 18.7 or § 18.8. The Director under this part may enter into leases with non-profit organizations (recognized as such by the Internal Revenue Service) or units of government without complying with §§ 18.7 or 18.8 if the Director determines that the non-profit or governmental use of the property will contribute to the purposes and programs of the park area. All other requirements of this part are applicable to leases entered into or to be entered into under authority of this section. The Director may enter into leases under this part with a term of sixty (60) days or less without complying with §§ 18.7 or 18.8 if the Director determines that to do so is in the best interests of the administration of the park area. If historic land is to be leased under the authority of this section, the Director must comply with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation) before entering into the lease.

§ 18.10 How long can the term of a lease be?

All leases entered into under this part shall have as short a term as possible, taking into account the financial obligations of the lessee and other factors related to determining an appropriate lease term. No lease shall have a term of more than 60 years. Leases entered under the authority of this part may not be extended, except that, leases with an initial term of one (1) year or more may be extended once for a period not to exceed one (1) additional year if the Director determines that an extension is necessary because of circumstances beyond the Director's control.

§ 18.11 What general provisions must a lease contain?

All leases entered into under this part must contain terms and conditions that are determined necessary by the Director to assure use of the leased property in a manner consistent with the purposes of the applicable park area as established by law, and where applicable, to assure the preservation of historic property.

§ 18.12 What specific provisions must a lease contain?

All leases entered into under this part must contain:

(a) A termination for cause or default provision;

(b) Appropriate provisions requiring the lessee to maintain the leased property in good condition throughout the term of the lease;

(c) Appropriate provisions stating that subletting of a portion of the leased property and assignment of a lease, if permissible under the terms of the lease, must be subject to the Director's written approval. Such subleases and assignments shall be approved only of the Director determines, among

other relevant matters, that the proposed sub-lessee or assignee is financially and managerially capable of carrying out the terms of the lease. Assignment of a lease for the purpose of effectuating an encumbrance to the lease or the leased property is subject to approval pursuant to the requirements of paragraph (l) of this section;

(d) Appropriate provisions requiring the lessee to secure and maintain from responsible companies liability insurance sufficient to cover losses connected with or occasioned by the use and activities authorized by the lease. Types and amounts of insurance coverage will be specified in writing and periodically reviewed by the Director;

(e) Appropriate provisions, unless the Director determines otherwise in the circumstances of a particular lease, requiring the lessee to obtain from responsible companies casualty insurance (including flood insurance if applicable) in an amount sufficient to protect the interests of the lessee and the government. In the event of casualty, the lessee shall be required to repair or replace damaged or destroyed property unless otherwise determined by the Director;

(f) Appropriate provisions requiring the lessee to save, hold harmless, and indemnify the United States of America and its agents and employees for all losses, damages, or judgments and expenses resulting from personal injury, death or property damage of any nature arising out of the lessee's activities under the lease, and/or the activities of the lessee's employees, subcontractors, sub-lessees, or agents. No lease entered into this part may contain provisions intended to provide indemnification or other assurances to the lessee regarding the conduct or activities of the Director concerning the lease or the administration of the applicable park area. Leases may contain appropriate provisions that commit the Director to accept responsibility for tortious actions of government officials to the extent authorized by the Federal Torts Claim Act or as otherwise expressly authorized by law;

(g) Appropriate provisions requiring the lessee to pay for use of all utilities used by the lessee and to pay all taxes and assessments imposed by federal, state, or local agencies applicable to the leased property or to lessee activities;

(h) Appropriate provisions stating that the lessee has no rights of renewal of the lease or to the award of a new lease upon lease termination or expiration and that the lease is subject to cancellation by the Director in the exercise of the sovereign authority of the United States to the extent provided by applicable law;

(i) Appropriate provisions stating that the lessee may not construct new buildings or structures on leased property, provided that, a lease may contain appropriate provisions that authorize the lessee to construct, subject to the prior written approval of the Director, minor additions, buildings and/or structures determined by the Director to be necessary for support of the authorized activities of the lessee and otherwise to be consistent with the protection and purposes of the park area. Approval by the Director of new construction may only be granted if the Director makes the determinations required by § 18.4;

(j) Appropriate provisions requiring that:

(1) Any improvements to or demolition of leased property to be made by the lessee may be undertaken only with written approval from the Director;

(2) That any improvements to or demolition of historic property may only be approved if the Director determines that the improvements or demolition complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR part 68); and

(3) Any improvements made by a lessee shall be the property of the United States;

(k) Appropriate provisions that describe and limit the type of activities that may be conducted by the lessee on the leased property. The types of activities described in a lease may be modified from time to time with the approval of the Director through an amendment to the lease. The Director may approve modified activities only if the determinations required by § 18.4

remain valid under the proposed modified activities and the proposed activities are otherwise determined appropriate by the Director;

(l) Appropriate provisions, unless the Director determines not to permit pledges or encumbrances in the circumstances of a particular lease, authorizing the lessee to pledge or encumber the lease as security, provided that any pledge or encumbrance of the lease and the proposed holder of the pledge or encumbrance must be approved in writing in advance by the Director and that a pledge or encumbrance may only grant the holder the right, in the event of a foreclosure, to assume the responsibilities of the lessee under the lease or to select a new lessee subject to the approval of the Director. Pledges or encumbrances may not grant the holder the right to alter or amend in any manner the terms of the lease;

(m) Appropriate provisions stating that fulfillment of any obligations of the government under the lease is subject to the availability of appropriated funds. No lease issued under authority of this part shall entitle the lessee to claim benefits under the Uniform Relocation Assistance Act of 1970 (Public Law 91–646) and all leases entered into under the authority of this part shall require the lessee to waive any such benefits; and

(n) Appropriate provisions granting the Director and the Comptroller General access to the records of the lessee as necessary for lease administration purposes and/or as provided by applicable law.

PART 20—ISLE ROYALE NATIONAL PARK; COMMERCIAL FISHING

Sec.
20.1 Definitions.
20.2 Permits; conditions.
20.3 Maximum number of permittees.
20.4 Revocation of permits; appeal.

AUTHORITY: Secs. 1–3, 39 Stat. 535, as amended, sec. 3, 56 Stat. 133, secs. 1, 2, 67 Stat. 495, 496; 16 U.S.C. 1, 1b, 1c, 2, 3, 408k.

SOURCE: 24 FR 11055, Dec. 30, 1959, unless otherwise noted.

§ 20.1 Definitions.

As used in this part:

(a) *Park* means Isle Royale National Park.

(b) *Permittee* includes all persons engaged in commercial fishing from bases in the Park, except those life lessees who were engaged in such occupation at the date of the issuance of their leases.

[24 FR 11055, Dec. 30, 1959, as amended at 60 FR 55791, Nov. 3, 1995; 62 FR 30235, June 3, 1997]

§ 20.2 Permits; conditions.

Annual, revocable special use permits authorizing the use of Government-owned structures and facilities in the Park as bases for commercial fishing in the waters contiguous to the Park may be granted by the Director of the National Park Service, or the Regional Director if authorized by the Director, to bona fide commercial fishermen, where such structures and facilities were used for this purpose during the period from April 1, 1937, to December 31, 1939, inclusive, subject to the following conditions.

(a) Permittees will be required to pay an annual fee as set forth in part 6 of this chapter.

(b) Permittees shall personally reside at their Park bases during the fishing season.

(c) Permittees shall secure and possess at all times such commercial fishing license as may be required by the State of Michigan.

(d) Permittees shall comply with all Michigan laws, and related regulations prescribed by the Michigan Department of Conservation, governing commercial fishing in the waters contiguous to the Park.

(e) Permittees shall use the bases covered by the permit for commercial fishing only. No permittee shall furnish boat or guide service to the public unless expressly authorized to do so by the Secretary or the Director.

(f) Permittees shall maintain at their own expense, in accordance with reasonable standards of repair, safety, and sanitation, all Government-owned structures and facilities embraced in the permits.

(g) The size, type and location of nets and gear and the number of men engaged in the operation of the fishing