

§ 17.8

If within 30 days of mailing of such notification, the former owner or owners do not indicate a desire to acquire the interest and make payment or agree to make payment for such interest in an amount equal to the declared high bid, or, if they do indicate such a desire but fail to consummate the transaction within the time period established for the conveyance, then the bid of the declared high bidder will be accepted. In the event that a former owner who indicates a desire to repurchase pursuant to this procedure fails to consummate the transaction within the established time period the declared high bidder shall be permitted, but not required, to consummate the transaction. If the declared high bidder does not choose to consummate the transaction in this circumstance, the entire transaction will be cancelled, and, if appropriate, a new bidding procedure instituted.

§ 17.8 Conveyance.

Conveyance of a leasehold or freehold interest shall be by lease or deed, as appropriate, at the highest bid price, but not less than fair market value. All conveyance of leasehold or freehold interests shall contain such terms and conditions as the Secretary deems necessary to assure use of the property in a manner consistent with the purpose for which the area was authorized by Congress. The conveyancing or leasing document shall contain such provisions and restrictions as may be determined by the Secretary to be necessary to protect the natural, historic, cultural or other values present on the lands. All conveyances shall be without warranty.

PART 18—LEASES AND EXCHANGES OF HISTORIC PROPERTY

Sec.

- 18.1 Authority.
- 18.2 Definitions.
- 18.3 Applicability.
- 18.4 Notice/Publicity.
- 18.5 Determination of fair market rental value.
- 18.6 Advertised sealed bids.
- 18.7 Action at close of bidding.
- 18.8 Requests for proposals.
- 18.9 Lease terms and conditions.
- 18.10 Subleases and assignments.

36 CFR Ch. I (7–1–98 Edition)

- 18.11 Special requirements.
- 18.12 Ownership of improvements.
- 18.13 Exchanges for historic property.

AUTHORITY: Sec. 207, Pub. L. 96-515, 94 Stat. 2997 (16 U.S.C. 470h-3)

SOURCE: 47 FR 53369, Nov. 26, 1982, unless otherwise noted.

§ 18.1 Authority.

Section 207 of the National Historic Preservation Act Amendments of December 12, 1980, Pub. L. 96-515, 94 Stat. 2997, amends the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., by adding a new section 111. Section 111(a) authorizes the Secretary of the Interior to lease historic property owned by the Department of the Interior or to exchange certain property owned by the Department of the Interior with certain comparable non-federally owned historic property in order to ensure the preservation of the historic property. Section 111(b) provides that proceeds from such leases of an historic property may be retained by the agency to defray the cost of administering, maintaining, repairing, or otherwise preserving the property or other properties on the National Register. The Secretary must consult with the Advisory Council on Historic Preservation before taking an action pursuant to this part.

§ 18.2 Definitions.

In addition to applicable definitions contained in 36 CFR part 1, the following definitions shall apply to this part:

(a) *Adaptive Use* means the act or process of adapting a structure to a use other than that for which it was designed.

(b) *Authorized Officer* means an officer or employee of the National Park Service designated to conduct leases or exchanges and delegated authority to execute all necessary documents including leases and deeds.

(c) *Fair Market Rental Value* means the most probable rent that the property would command if it were exposed on the open market for a period of time sufficient to attract a tenant who rents the property with full knowledge of the alternatives available to him on the market.

(d) *Fair Market Value* means the amount in cash, or terms reasonably

equivalent to cash, for which in all probability, the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but was not obligated to buy.

(e) *Historic property* means any pre-historic or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register of Historic Places.

(f) *Lease* means a written contract by which use and possession in land and/or improvements is given to another person for a specified period of time and for rent and/or other consideration.

(g) *Leasehold interest* means a contract right in property consisting of the right to use and occupy real property by virtue of a lease agreement.

(h) *National Register* or *National Register of Historic Places* means the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture, maintained by the Secretary of the Interior under authority of section 101(a)(1) of the National Historic Preservation Act of 1966, as amended (80 Stat. 915, 16 U.S.C. 470 et seq. (1970 ed)).

(i) *Preservation* means the act or process of applying measures to sustain the existing terrain and vegetative cover of a site and the existing form, integrity, and material of a structure. It includes initial stabilization work, where necessary, as well as ongoing maintenance.

(j) *Preservation Maintenance* means the act or process of applying preservation treatment to a site or structure. It includes housekeeping and routine and cyclic work scheduled to mitigate wear and deterioration without altering the appearance of the resource, repair or replacement-in-kind of broken or worn-out elements, parts, or surfaces so as to keep the existing appearance and function of the site or structure, and emergency stabilization work necessary to protect damaged historic fabric from additional damage.

(k) *Reconstruction* means the act or process of accurately reproducing a site or structure, in whole, or in part, as it appeared at a particular period of time.

(l) *Rehabilitation* means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

(m) *Restoration* means the act or process of recovering the general historic appearance of a site or the form and details of a structure, or portion thereof, by the removal of incompatible natural or human-caused accretions and the replacement of missing elements as appropriate. For structures, restoration may be for exteriors and interiors, and may be partial or complete.

[47 FR 53369, Nov. 26, 1982, as amended at 62 FR 30235, June 3, 1997]

§ 18.3 Applicability.

Section 111 of the Act is applicable to certain historic property under the jurisdiction of the National Park Service which the Director has determined would be adequately preserved by lease as well as to any other non-Federal historic property within the authorized boundaries of a unit of the National Park System which the National Park Service may wish to acquire through an exchange of federally owned property of equal value and/or equalizing monetary consideration, in order to ensure the preservation of the historic property. No lease or exchange shall be made under this part until a written determination is made by the Director that, pursuant to the National Park Service Planning Process, such use will be consistent with the purposes for which the park is established. No lease or exchange shall be made prior to consultation with the Advisory Council on Historic Preservation. These regulations shall not apply to objects or pre-historic structures.

§ 18.4 Notice/Publicity.

(a) When the Director has determined in accordance with these regulations that an appropriate interest in National Park Service property will be offered for lease, public notice of the opportunity shall be published at least