Forest Supervisor, North Kaibab Ranger District, Tusayan Ranger District, and Williams Ranger District Notices are published in: ''*Arizona Daily Sun*'', Flagstaff, Arizona.

Prescott National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Bradshaw Ranger District, Chino Valley Ranger District and Verde Ranger District are published in: ''*Prescott Courier*'', Prescott, Arizona.

Tonto National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor are published in: ''*East Valley Tribune*'', Mesa and ''*Scottsdale Tribune*'', Scottsdale, Arizona. Cave Creek Ranger District Notices are published in: ''*Scottsdale Tribune*'', in Scottsdale, Arizona.

Globe Ranger District Notices are published in: ''*Arizona Silver Belt*'', Globe, Arizona. Mesa Ranger District Notices are published in: ''*East Valley Tribune*'', Mesa, Arizona. Payson Ranger District, Pleasant Valley Ranger District and Tonto Basin Ranger District Notices are published in: ''*Payson Roundup*'', Payson, Arizona.

New Mexico National Forests

Carson National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Camino Real Ranger District, Tres Piedras Ranger District and Questa Ranger District are published in: ''*The Taos News*'', Taos, New Mexico.

Canjilon Ranger District and El Rito Ranger District Notices are published in: ''*Rio Grande Sun*'', Espanola, New Mexico.

Jicarilla Ranger District Notices are published in: ''*Farmington Daily Times*'', Farmington, New Mexico.

Cibola National Forest and National Grasslands

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor affecting lands in New Mexico, except the National Grasslands are published in: ''*Albuquerque Journal*'', Albuquerque, New Mexico.

Forest Supervisor Notices affecting National Grasslands in New Mexico, Oklahoma and Texas are published by grassland and location as follows: Kiowa National Grassland in Colfax, Harding, Mora and Union Counties, New Mexico, published in: ''*Union Gounty Leader*'', Clayton, New Mexico. Rita Blanca National Grassland in Cimarron County, Oklahoma published in: ''*Boise City News*'', Boise City, Oklahoma. Rita Blanca National Grassland in Dallam County, Texas published in: ''*The Daihart Texan*'', Daihart, Texas. Black Kettle National Grassland, in Roger Mills County, Oklahoma published in: ''*Cheyenne Star*'', Cheyenne, Oklahoma. Black Kettle National Grassland, in Hemphill County, Texas published in: ''*The Canadian Record*'', Canadian, Texas. McClellan Creek National Grassland published in: ''*The Pampa News*'', Pampa, Texas.

Mt. Taylor Ranger District Notices are published in: ''*Cibola Gount Beacon*'', Grants, New Mexico.

Magdalena Ranger District Notices are published in: ''*Defensor-Chieftain*'', Socorro, New Mexico.

Mountainair Ranger District Notices are published in: ''*Mountain View Telegraph*'', Moriarity, New Mexico.

Sandia Ranger District Notices are published in: ''*Albuquerque Journal*'', Albuquerque, New Mexico.

Kiowa National Grassland Notices are published in: ''*Union County Leader*'', Clayton, New Mexico.

Rita Blanca National Grassland Notices in Cimarron County, Oklahoma are published in: ''*Boise City News*'', Boise City, Oklahoma while Rita Blanca National Grassland Notices in Dallam County, Texas, are published in: ''*Dalhart Texan*'', Daihart, Texas.

Black Kettle National Grassland Notices in Roger Mills County, Oklahoma are published in: ''*Cheyenne Star*'', Cheyenne, Oklahoma, while Black Kettle National Grassland Notices in Hemphill County, Texas are published in: ''*The Canadian Record*'', Canadian, Texas. McClellan Creek National Grassland Notices are published in: ''*The Pampa News*'', Pampa, Texas.

Gila National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Quemado Ranger District, Reserve Ranger District, Glenwood Ranger District, Silver City Ranger District and Wilderness Ranger District are published in: ''*Silver City Daily Press*'', Silver City, New Mexico.

Black Range Ranger District Notices are published in: ''*The Herald*'', Truth or Consequences, New Mexico.

Lincoln National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor and the Sacramento Ranger District are published in: ''*Alamogordo Daily News*'', Alamogordo, New Mexico.

Guadalupe Ranger District Notices are published in: ''*Carlsbad Current Argus*'', Carlsbad, New Mexico.

Smokey Bear Ranger District Notices are published in: ''*Ruidoso News*'', Ruidoso, New Mexico.

Santa Fe National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Coyote Ranger District, Cuba Ranger District, Espanola Ranger District, Jemez Ranger District and Pecos-Las Vegas Ranger District are published in: ''*Albuquerque Journal*'', Albuquerque, New Mexico.

Dated: April 7, 2008.

Faye Krueger,

Deputy Regional Forester, Southwestern Region.

[FR Doc. E8–8223 Filed 4–17–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Revised Proposed Policy for Outfitting and Guiding Land Use Fees in the Alaska Region

AGENCY: Forest Service, USDA.

ACTION: Notice of revised proposed policy; request for comment.

SUMMARY: The Alaska Region of the Forest Service is proposing a revised regional flat fee policy in place of the proposal published in the **Federal Register** on September 15, 2006 (71 FR 54454). The revised policy differs enough from the original proposed policy to merit public notice and comment.

ADDRESSES: Send comments to the Regional Forester, Attention: Recreation, Lands and Minerals Staff, P.O. Box 21628, Juneau, Alaska 99802–1628; via electronic mail to *comments-alaska-regional-office@fs.fed.us*; or via facsimile to (907) 586–7866. Please confine comments to issues pertinent to the revised proposed fee policy. Comments that were submitted previously in response to the September 15, 2006, **Federal Register** notice are addressed in the response to comments section of this preamble. The public is not required to send duplicate comments via regular mail when submitting comments by e-mail. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on this revised proposed policy in Room 519D of the

Federal Office Building, 709 West 9th Street, Juneau, Alaska, between 9 a.m. and 4 p.m. on business days.

DATES: Comments must be received in writing by June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Neil Hagadorn, (907) 586–9336.

SUPPLEMENTARY INFORMATION: This notice supplements and incorporates to the extent it is consistent with the September 15, 2006, notice of the proposed long-term flat fee policy for outfitting and guiding in the Alaska Region, including the December 15. 2006, extension of the comment period for that proposed policy.

Background

In *The Tongass Conservancy* v. *Glickman,* No. J97–029–CV, slip op. (D. Alaska Sept. 19, 1998), the court held that the Forest Service's land use fee system must be fair to the plaintiff outfitter and guide, as well as based on the market value of the use of National Forest System (NFS) lands. In addition, based on a concern that different fees were being charged for the same type of commercial use of NFS lands, the court held that there was ''insufficient evidence in the record to support a conclusion that the fees charged to the plaintiff were both fair and based upon the value of the use of Forest Service lands available to the plaintiff.'' *The Tongass Conservancy,* slip op. at 2. The court ordered the Alaska Region of the Forest Service to undertake actions consistent with the court's ruling and applicable law.

In response, on July 21, 1999, the Alaska Region published in the **Federal Register** for public notice and comment a proposed interim flat fee policy for all outfitting and guiding in the Alaska Region (Alaska Region Interim Flat Fee Policy or ARIFFP) (64 FR 39114, July 21, 1999). The notice for the final interim ARIFFP was published in the **Federal Register**, and went into effect on February 14, 2000 (65 FR 1846, January 12, 2000).

On September 15, 2006, the Alaska Region published a notice of a proposed regional flat fee policy in the **Federal Register** (71 FR 54454) with a 90-day comment period. The agency received two requests for an extension of the comment period. The Forest Service extended the comment period until March 15, 2007 (71 FR 74896). The Alaska Region received 40 comments from individuals, outfitters and guides, the travel industry, and the Southeast Alaska Conservation Council.

Based on review of the comments, the Alaska Region is revising its proposed flat fee policy. The revised proposal in this notice replaces the initial proposal published on September 15, 2006.

In August 2003, the Anchorage-based appraisal firm Black-Smith and Richards, Inc. (BSR) completed its phase II market study (Final Phase II Report) on development of a land use fee system for outfitting and guiding in the Alaska Region that is both fair to the outfitters and guides and based on the fair market value of the use of NFS lands for outfitting and guiding. The Final Phase II Report identified two possible methods for land use fee schedule development in this context: (1) The modified ARIFFP, which relates fees to gross revenues from outfitting and guiding conducted on NFS lands, and (2) the bottom-up pricing method (BUPM), which ties outfitting and guiding land use fees to fees charged for comparable unguided recreational uses on non-federal lands (Final Phase II Report at 19).

The initial proposal published on September 15, 2006, was based on the modified ARIFFP. The Alaska Region developed this revised proposal based on review of comments received on the initial proposal; BSR market survey data; the work group recommendations; the need to simplify administration of the land use fee program in the Alaska Region; and the application of sound business management principles.

Comments Supporting Revision of the Proposed Flat Fee Policy

Comment. Some respondents recommended adopting the BUPM since the approach would be simpler and result in more consistent fees. Some respondents thought that the BUPM better supports Alaska outfitting and guiding land use fees than the modified ARIFFP because the BUPM reflects changing market conditions.

One respondent suggested that all commercial activities conducted in a remote setting be assessed the same fee as remote-setting nature tours. Several respondents thought that remote-setting nature tours are overcharged relative to other activities. Some respondents commented that remote-setting nature tours and road-based tours involve the same activities, such as hiking, nature viewing, and photography, and should be charged the same fee. One respondent stated that the original proposed fee schedule appears to charge different fees for the same or similar uses of NFS lands. Another respondent believed that the complexity in the original proposed fee schedule probably would result in operators reporting different uses and paying different fees for the same activities. Another respondent stated that BSR's Phase I Report concluded that the value of the use of NFS lands for nature viewing in roaded areas was the same as for nature viewing in remote areas. Another respondent stated that the original proposed fee schedule does not group similar activities together. One respondent said their business is a combination of road-based and remote-setting experiences and questioned how fees for their permit would be determined.

One respondent asked why the original proposed fee schedule has two categories for helicopter tours and none for motorized water-borne tours. One respondent questioned why a motorized water tour in a remote-setting differs from flight-seeing or helicopter landing tours. Another respondent questioned why under the original proposed policy fees are higher for remote-setting nature tours than for other categories and noted that fees for other categories are not increasing in the same proportion as fees for remote-setting nature tours. Another respondent stated that certain activities, such as helicopter tours, are being unfairly targeted under the original proposed fee policy, since their fees would increase from $2.83 to $8.12.

Some respondents requested a separate fee for their activity, including tours on kayak motherships; water-based tours with occasional stops on NFS lands; and environmental education tours. Some respondents stated that flat fees based upon the average of all outfitters' and guides' use days are unfair to small operators because they do not have a high volume of business. Several respondents commented that the original proposed fee schedule is fragmented into unrealistically narrow categories. One respondent commented that there is overlap among the activities in the original proposed fee schedule. Another respondent noted that the categories in the original proposed fee schedule are arbitrary and are not based on a meaningful distinction regarding use of NFS lands. Another respondent commented that the long-term flat fee policy would substantially expand the number of activities that a flight-seeing or helicopter landing tour operator would be required to track.

One respondent suggested basing outfitting and guiding permit fees in the Alaska Region on a percentage of gross revenue.

Several respondents stated that gross revenues are not an appropriate basis for calculating the value of special use privileges. One respondent stated that the assumption that gross revenues of a business conducted on NFS lands are an accurate reflection of the value of a

business's use of those lands is flawed because net revenues can vary widely among businesses with similar gross revenues. Two respondents noted that the fees in the original proposed fee schedule are based on operating costs, which are not related to use of NFS lands. Another respondent questioned how the agency could obtain a meaningful average for purposes of establishing flat fees in the modified ARIFFP by combining revenues from a high-end operator charging $500 per day and revenues from an operator charging $50 per day. Another respondent stated that the Alaska Region did not exclude high-cost operators in developing the original proposed fee schedule, as was done in developing the ARIFFP. Another respondent stated that a flat fee proposal that bases fees in each category on the average revenue for all client days is unfair to small operators because they do not operate for the average number of days and do not have enough income to justify paying the applicable flat fee in the original proposed fee schedule. Two respondents stated that the cost of a tour is driven by the mode of access, which should have no bearing on the fees charged for the use that occurs after the land is accessed. One respondent noted that his business's revenue data were not considered in establishing the original proposed policy because his business started in 2004. Another respondent stated that the original proposed fee policy would impose a cumbersome administrative burden on outfitters and guides.

Response. The Alaska Region has revised the proposed policy by applying market survey information from the Final Phase II Report to develop the BUPM and applying sound business management principles to simplify land use fee administration for outfitters and guides and the Alaska Region. The Final Phase H Report recognized that both the modified ARIFFP and the BUPM could be used to develop an outfitting and guiding permit fee system for the Alaska Region in compliance with the ruling in *The Tongass Conservancy* v. *Glickman* (Final Phase II Report at 9).

The September 15, 2006, **Federal Register** notice states, ''The data are too limited to develop unique values in the bottom-up pricing method for the diverse activities recognized in the Alaska Region'' (71 FR 54459) (citing the Final Phase II Report at 59–60). In the discussion of the BUPM, the BSR report observes that the broader market recognizes only a few general categories of related uses (Final Phase II Report at 21). However, by reducing the 30 activities in the initial proposal to 9 activities in this revised proposal, sufficient market data are available to develop a land use fee schedule based on fees paid to non-federal land owners for comparable unguided land uses. The resulting fee schedule is more closely tied to the market than the original fee schedule.

The large number of activities in the original proposed fee policy was carried over from the original flat fee schedule recommended for consideration by a working group from federal and state agencies assisting the Alaska Land Use Council (71 FR 54454 54455; Sept. 15, 2006). Road-based nature tours, remote-setting nature tours, flight seeing landing tours, helicopter landing tours, non-motorized freshwater boat trips, dog sled tours, camping, and road-based wildlife viewing activities are combined in this revised policy in one general recreation activity. These activities were combined because the market does not appear to differentiate between those types of unguided recreation activities. This new activity is consistent with the ruling in *The Tongass Conservancy* v. *Glickman*, which holds that to be fair to outfitters and guides, the Alaska Region's outfitting and guiding land use fee system must establish similar fees for similar uses of NFS lands. *The Tongass Conservancy*, slip op. at 8.

Updating the fee schedule under the initial proposal would require periodic compilation of gross revenue and the number of client days and clients per hunt. The Final Phase H report states: In the bottom-up pricing method, flat fees are derived from a survey and correlation of actual market data. The only permit holder data required are the annual reports of client volumes. There is no percentage component (Final Phase 11 Report at 59). Updating the fee schedule under the revised proposal therefore would be less burdensome to the permit holders and the Alaska Region, since it would merely involve adjusting fees in accordance with the Implicit Price Deflator-Gross Domestic Product (IPD) and periodic market surveys of unguided land use fees.

In addition, combining the 8 activities from the original proposal into one general recreation category in the revised proposal reduces the potential for charging for the level of service provided and mode of transportation used to access NFS lands, and would assure greater fairness and equity to a larger segment of the outfitters and guides. Thus periodic updates of the fee schedule would be less burdensome and expensive than the process required to update the modified ARIFFP.

The Forest Service disagrees with the comment that gross revenues are not an appropriate basis for calculating the value of special use privileges. Generally, the gross revenues of a business conducted on NFS lands are an accurate reflection of the value of the business's use of those lands, regardless of whether the business involves improvements on NFS lands. Gross revenues derived from use or occupancy of NFS lands are an accurate indicator of the value of that use or occupancy because generation of the income depends on use of NFS lands: without it, the business would not exist. This conclusion is supported by the 1996 Government Accountability Office (GAO) report, ''Fees for Recreation Special-Use Permits Do Not Reflect Fair Market Value'' (1996 GAO report), which compares land use fees for outfitting and guiding based on a percentage of gross revenues that are charged by the Forest Service with land use fees charged by the State of Idaho for outfitting and guiding based on a percentage of gross revenues (GAO Report, RCED–97–16 (Sept. 1996) at 7)).

Nevertheless, as stated in the original flat fee proposal (71 FR 54454), the agency believes that flat fees for outfitting and guiding are appropriate in the Alaska Region because many outfitters and guides in Alaska base a significant percentage of their client charges on activities that occur off NFS lands. In contrast to the original flat fee proposal, which was based on an average of revenues generated by outfitters and guides conducting activities on NFS lands, the revised flat fee proposal is completely divorced from gross revenues of outfitters and guides because it is based on the fees charged for comparable unguided uses on non-federal lands. Therefore, the comments on the original flat fee proposal regarding gross revenues do not apply to the revised flat fee proposal.

Other Comments

Short-Stop Fees

Comment. One respondent said that there should be an incidental use category. Some respondents thought they should be charged a short-stop fee because their clients are not on NFS lands a high percentage of their tour. Another respondent suggested establishing a category for water-based tours with occasional stops on NFS lands. One respondent stated that the original proposed policy would result in land use fees based on the cost of delivering guests and other services, not on the value of the use of NFS lands. One respondent noted that in setting the fee for remote setting nature tours, the agency failed to ensure that fees are

impermissibly based on revenues derived from services provided off NFS lands.

Response. Short-stop fees are charged for trips that use NFS lands incidental to the purpose of the trip (FSH 2709.11, sec. 37.05). For example, both the initial and revised fee policies include short-stop flat fees that had been developed for Forest Service visitor centers in Alaska. The attraction of the Chugach and Tongass National Forests is not considered incidental to the purpose of outfitted and guided trips in Alaska. In general, non-federal landowners charge the same rate for unguided recreational uses, regardless of the time per day spent on their lands. Therefore, other than for visitor centers in Alaska, the Alaska Region believes that a short-stop fee is not appropriate for the outfitting and guiding uses in Alaska.

Category for Nonprofit Educational Organizations

Comment. One respondent asked the Alaska Region to consider adding a category for nonprofit educational organizations.

Response. The Forest Service's regulations define a commercial use or activity as any use or activity on NFS lands where an entry or participation fee is charged or where the primary purpose is the sale of a good or service, and in either case, regardless of whether the use or activity is intended to produce a profit (36 CFR 251.51). The Forest Service's regulations define guiding as providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, transporting people, or interpretation) for pecuniary remuneration or other gain to individuals or groups on NFS lands (36 CFR 251.51). The Forest Service's regulations define outfitting as renting or delivering to NFS lands for pecuniary remuneration or other gain any saddle or pack animal, vehicle, boat, camping gear, or similar supplies or equipment (36 CFR 251.51). Under these regulations, an entity that is conducting outfitting or guiding, regardless of whether it is intended to produce a profit, is engaging in a commercial activity that is subject to land use fees. Thus, it would not be appropriate to establish a separate category for nonprofit educational institutions in the Alaska Region's outfitting and guiding flat fee policy.

Off-Forest Discount

Comment. Some respondents commented that they spend a small portion of their time on NFS lands and should receive an 80 percent discount on fees derived as a percentage of gross revenue. One respondent stated that in setting fees, the agency must consider actual use or commercial dependency of outfitters and guides.

Response. The revised proposed policy is not based on gross revenue or the amount of time spent on NFS lands. Fees would be charged per client per day or per client per hunt, regardless of the amount of time per day spent on NFS lands or the length of the hunt. In contrast to the fees in the initial proposed policy, i.e., in the modified ARIFFP, which were developed by determining the average price charged each client per day or per hunt for each category of outfitting and guiding conducted on NFS lands, the fees in the revised proposed policy were developed using data for fees charged for comparable unguided activities on non-federal lands. Thus, in contrast to the original proposed policy, the revised proposed policy is not derived from gross revenue of outfitters and guides operating on NFS lands. The market observations show that private and other government entities do not give discounts and that it is not necessary to apply a discount for revenue derived from use off NFS lands. Flat fees are derived from a survey and correlation of actual market data. There is no percentage component (Final Phase II Report at 59).

Independent Offices Appropriations Act of 1952 (IOAA)

Comment. Some respondents commented that the IOAA requires agency fees to be based on public policy, the value of the benefit to the recipient, and the cost to the government. One respondent stated that the IOAA does not mandate that permit fees serve as a revenue source for federal agencies. This same respondent stated that fees may be based on market prices and yield net revenues when the government is acting in a proprietary capacity, i.e., leasing or selling goods, but not where, as here, the government is acting in a proprietary capacity in providing access to federal lands.

Response. Consistent with the IOAA and OMB Circular No. A–25. Forest Service regulations at 36 CFR 25 1.57(a)(I) provide that land use fees for special use authorizations shall be based on the fair market value of the rights and privileges authorized, as determined by appraisal or other sound business management principles. Likewise, the court in *The Tongass Conservancy* case held that while the land use fee must be fair to the plaintiff, the fee must also be based on the value of the use of NFS lands. *The Tongass Conservancy*, slip op. at 7.

Therefore, land use fees for special uses, including outfitting and guiding. must be charged for the use of NFS lands, rather than for access to NFS lands.

OMB Circular No. A–25 provides that user charges are based on recovery of full agency costs when an agency is acting in a sovereign capacity, e.g., when a land management agency is charging recreation fees for facilities and sites managed by that agency. OMB Circular No. A–25, sec. 6a(2)(a). However, when an agency is acting in a propriety capacity, e.g., when an agency is leasing or selling goods or resources, user charges are based on market prices. Id, at see. 6a(2)(b). Here, issuance of an outfitting and guiding permit authorizing use of NFS lands is analogous to authorizing use of federal lands under a lease. Therefore, under OMB Circular No. A–25, the proper standard is market value, rather than agency costs.

Fees Based on Impacts to the Land

Comment. Some respondents commented that the proposed fee policy does not take into account the impacts of outfitting and guiding activities on NFS lands. Others stated that camping trips have a much greater impact on the environment than boat tours and questioned why the fees are higher for boat tours than for camping. One respondent stated that fees should not be higher for non-consumptive uses of NFS lands.

Response. Under the IOAA, OMB Circular No. A–25, and Forest Service regulations, the standard for determining land use fees charged by the Forest Service is the market value of the use of NFS lands, not the impact of the use on NFS lands. Therefore, it would not be appropriate to take into account the impacts of outfitting and guiding activities in setting their land use fees.

Objectivity of BSR

Comment. One respondent questioned BSR's objectivity based on BSR's acceptance of the Forest Service's conclusion that current land use fees for outfitting and guiding in the Alaska Region do not reflect fair market value; BSR's use of the word ''arguably'' to justify a result favorable to the Alaska Region; and BSR's statement that the initial proposed fee policy ''best meets the needs of the Alaska Region.''

Response. The Alaska Region believes that BSR did not show any actual or apparent bias in any aspect of the outfitter and guide use evaluation. Both

the Phase I and Phase II Reports contain certifications stating that BSR has no present or prospective interest in Forest Service special use authorizations; that BSR has no personal interest or bias with respect to the parties involved in the outfitting and guiding use valuation; that BSR's employment was not conditioned on, nor its compensation contingent upon, the reporting of a predetermined objective or direction that favors the cause of the Forest Service or any other party, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event; and that BSR's analyses, opinions, and conclusions were developed, and the reports were prepared, in conformity with the Uniform Standards of Professional Appraisal Practice and the Uniform Standards for Federal Land Acquisitions (Phase I Report at 4; Final Phase II Report at 5). These certifications attest to BSR's lack of actual or apparent bias.

The Forest Service's conclusion that current land use fees do not reflect fair market value is supported by BSR's data and analysis (see, e.g., Phase I Report at 48) and the 1996 GAO report, which specifically addresses outfitting and guiding land use fees. In particular, the 1996 GAO report states:

> In an effort to compare state and federal fees for commercial recreational activities, we compared some Forest Service-authorized commercial recreational uses and fees in national forests that we visited to similar uses and fees on state lands. We found some similar comparisons in three of the five states we visited. In those instances—in California, Idaho, and Colorado—the states' fees for commercial recreation uses ranged from 6 to 15 percent of gross sales or revenues, while the Forest Service's fees averaged less than 3 percent. * * *. Idaho's fee for 12 of these [outfitting and guiding] activities is 5 percent of gross sales or $250 annually, whichever is greater. In comparison, the Forest Service's fee for outfitters and guides is a maximum of 3 percent of gross revenues or $70, whichever is greater.

(GAO Report, RCED–97–16 (Sept. 1996) at 7).

Use of the word ''arguably'' does not show bias; rather, use of the word ''arguably'' qualifies a statement, i.e., shows that it is open to argument.

Likewise, the statement that the initial proposed policy ''best meets the needs of the Alaska Region'' does not show bias because meeting the needs of the Alaska Region includes being fair to outfitters and guides. Specifically, the request for proposals (RFP) for the outfitter and guide use valuation in the Alaska Region requires BSR to develop an outfitting and guiding fee system (1) that is fair to outfitters and guides in charging similar fees for similar uses (*see, e.g.,* Phase I Report at 49, evaluating the ability of each methodology to develop market prices that are fair to permit holders), as well as fair to the government in yielding fees that are based on the market value of the use of NFS lands; (2) that will result in stable fees that do not vary widely over time; (3) that will not require competitive award of permits except in circumstances of limited new outfitting and guiding opportunities where demand to provide services exceeds supply; and (4) that will be simple to administer and that will not result in an undue reporting or record-keeping burden on permit holders (RFP at 11).

Minimum Fees

Comment. Some respondents commented that there is a need for a standard minimum fee for small operators.

Response. The minimum fee for all outfitters and guides, regardless of the size of their business, is $100 and would stay the same in the revised proposed policy.

Use of Proposed Fee Increases

Comment. Some respondents questioned whether the increase in fees would be used to benefit outfitters and guides and visitors to the national forests.

Response. Forest Service outfitting and guiding permits are issued under the Federal Lands Recreation Enhancement Act (REA) (16 U.S.C. 6801–6814). REA requires the Forest Service to retain and spend at least 80 percent of the funds collected under that statute, including land use fees from permits, at the site where the funds are collected, for enhancement and administration of the special uses program. Therefore, any increase in fees would benefit outfitters and guides and visitors to the national forests in the Alaska Region.

Fees Charged When Multiple Activities Are Involved

Comment. One respondent questioned which fee takes precedence if two or more activities are involved in a tour. Another respondent was concerned that the agency would charge the higher fee if both activities are conducted the same day.

Response. Currently, when an outfitter or guide conducts more than one authorized activity on a given day, the Alaska Region charges the highest fee from the fees for those activities. The revised proposed policy would eliminate this practice for any activities that are combined in the general recreation category. However, if an outfitter or guide conducts activities that fall into more than one category in the revised proposed policy, the outfitter or guide would pay the fee for the primary activity authorized in the corresponding permit. The actual use report would determine the fee that would be charged.

Regulatory Flexibility Act

Comment. One respondent commented that the Forest Service has failed to support its certification that a Regulatory Flexibility Act (RFA) analysis is not required. Specifically, this respondent noted that there are no cost estimates as to any potential economic impact of the increased land use fees on outfitters and guides or the tourism industry.

Other respondents commented generally on potential economic impacts. One respondent stated that it is difficult to absorb the rapidly rising costs of doing business. Another stated that the proposed increases in fees will be difficult to absorb. One respondent stated that it seems as if the proposed fees are geared toward eliminating the small ceo-tour operator. Another respondent expressed a concern that the trend established in part by the proposed policy is for the big companies to take over tours in the Alaska Region. That same respondent stated that she would not be able to pass this increase on to cruise lines with whom she contracts. Another respondent stated that the increase in fees would cause hardship to his business. Another respondent stated that additional economic burdens will discourage many businesses from continuing to offer services to the public. One respondent stated that small operators may be disadvantaged under the original proposed fee policy. One respondent noted that as a small business owner, he cannot justify raising his rates to include the proposed fee increase, yet cannot absorb the proposed increase without raising his rates. Another respondent stated that outfitters and guides cannot increase the volume of their business to cover increased fees. One respondent noted that he cannot absorb the large proposed increase for trips such as hunting that are booked 2 or 3 years in advance.

Response. The Forest Service has conducted a threshold RFA analysis of the revised proposed policy. Based on this analysis, the agency has concluded that the revised proposed policy would not have a significant economic impact on a substantial number of small entities as defined by the RFA because the revised proposed policy would not

impose record-keeping requirements on them; it would not affect their competitive position in relation to large entities, and it would not affect their cash flow, liquidity, or ability to remain in the market. A copy of the threshold RFA analysis is included in the record for the revised proposed policy.

Process Used To Develop the Proposed Policy

Comment. One respondent stated that the process used to develop the initial proposed fee policy was flawed because it did not involve the visitor services industry or outfitters and guides.

Response. In developing policy subject to public notice and comment under the Administrative Procedure Act or the National Forest Management Act, the Forest Service must observe applicable procedural requirements regarding public involvement, including forming a federal advisory committee to conduct negotiated rulemaking with affected parties or publishing a proposal in the **Federal Register** for public notice and comment. The Alaska Region has met these requirements by publishing both the initial and revised proposed policies in the **Federal Register** for public notice and comment.

Comments Beyond the Scope of the Proposed Flat Fee Policy

Comment. One respondent assumed that if the proposed fees go into effect, the respondent's request for authorization to install a sanitary removable outhouse, a yurt, and a yurt pad would be allowed. Another respondent noted that the Forest Service does not support brown bear research being conducted by the State of Alaska. One respondent stated that the Forest Service must address unreported and unauthorized outfitting and guiding conducted on NFS lands. One respondent stated that the initial proposed policy would impose air carrier requirements on entities that conduct air tours under Federal Aviation Administration regulations.

Response. The initial and revised proposed policies would establish a long-term flat fee system for outfitting and guiding conducted on NFS lands in the Alaska Region. Neither proposed policy would address authorization of installation of improvements on NFS lands: research conducted by the State of Alaska; unreported or unauthorized use of NFS lands; or air carrier requirements.

Revised Proposed Alaska Region Long-Term Flat Fee Policy

The Alaska Region developed the revised proposed long-term flat fee policy in response to many comments on the initial proposed policy. The Alaska Region reduced the number of activities from 30 to 9, resulting in a simpler, less expensive system to administer and update and greater predictability and consistency in implementation. The revised proposed policy is also easier and less expensive to administer and update because it does not include a market-based percentage rate, and the only permit holder data required are annual reports of client volumes. In compliance with the court order in The *Tongass Conservancy case,* under the revised proposal, similar fees would be charged for similar activities, consistent with the broader market, and the fees would yield a fair return to the government.

The fees in the revised proposal are based on the review of comments received on the initial proposal; BSR market survey data; the work group recommendations; the need to simplify administration of the land use fee program in the Alaska Region; and the application of sound business management principles. The BUPM prices outfitter and guide use in terms of the value of comparable unguided use evidenced in the market place and develops flat fees based on these comparable unguided use values (Final Phase II Report at 8 and 59).

Table 1 displays the revised proposed fees for outfitting and guiding in the Alaska Region.

TABLE 1.—ALASKA REGION REVISED PROPOSED OUTFITTING AND GUIDING LAND USE FEES

Activity	Proposed daily flat fee
VISITOR CENTERS (per client/per day):	
Visitor Centers	* $1.50
GENERAL RECREATION (per client/per day):	
All General Recreation Activities **	5.00
HELI-SKIING & OVER-SNOW VEHICLE TOURS (per client/per day):	
Over-snow Vehicle Tours	10.00
Heli-skiing Tours	.....
FRESH WATER FISHING AND SMALL GAME HUNTING (per client/per day):	
Freshwater Fishing and Waterfowl	10.00
Small Game Hunting (Including Wolf)	.....
BIG GAME HUNTING (per client/per hunt):	
Brown Bear	330.00
Mountain Goats/Dall Sheep/Moose/Elk	200.00
Black Bear	150.00
Deer	100.00
EQUIPMENT SERVICES (per day):	
Delivery and/or Pick-Up of Motorized and Nonmotorized Equipment, Such as Kayaks, Over-Snow Vehicles, and Camping Equipment, to National Forest System Lands for Clients	10.00

* Visitor center flat fees do not include fees paid by visitors authorized under the Federal Lands Recreation Enhancement Act.
** General recreation includes road-based nature tours, remote-setting nature tours, flight-seeing landing tours, helicopter landing tours, non-motorized freshwater boat trips, dog-sled tours, camping, and road-based wildlife viewing activities that are in the current fee schedule.

The land use fees charged for each category are described below.

Visitor Centers

The visitor center fee does not include the standard amenity recreation fee that is charged for these sites under REA.

General Recreation Activities

According to the BSR market survey, the market place does not recognize a high level of stratification in setting fees for general recreation (Final Phase 11

Report at 21). Consequently, in the revised proposed policy, activities such as road-based nature tours, remote-setting nature tours, and flight-seeing landing tours are grouped in the general recreation category. Based on the reconciliation of available market data for unguided uses, the BSR market survey concludes that a fee of $5.00 per day is appropriate for general recreation use. The report further observes that the market does not distinguish between partial days and whole days, the point of origin, or the mode of transportation used to conduct the activity (Final Report Phase H at 22).

Helicopter Skiing and Over-Snow Vehicle Tours

A higher fee for helicopter skiing and over-snow vehicle tours compared to general recreation is justified in comparison with NFS lands suitable for general recreation, NFS lands suitable for safe helicopter skiing and over-snow vehicle tours are much more limited, yet the demand for these activities is equally strong. Additionally, the average time per day spent on NFS lands for helicopter skiing is considerably longer than for helicopter landing tours.

Fresh Water Fishing and Small Game Hunting

Compared to general recreational activities such as remote-setting nature tours, commercial fishing and small game hunting require special habitats that are more limited. Habitats that contain fish-bearing fresh water streams are both limited in supply and high in demand. Setting a higher fee for fishing and small game hunting than for general recreation is therefore justified and consistent with the BSR market survey (Final Phase 11 Report at 27 and 29).

Big Game Hunting

There are four activities for big game hunting: (1) Brown bear; (2) mountain goat, Dall sheep, moose, and elk; (3) black bear and (4) deer. The BSR market survey estimates the value of an unguided, typical multi-day deer hunt without camping at approximately $100. To adjust for Alaska conditions, the fees for the remaining big game hunt categories are derived by applying ratios similar to those between tag fees charged by the Alaska Department of Fish and Game for the different species, and reflected in the BSR market survey. (Final Phase II Report at 41–53). The fees charged for big game hunting reflect the availability and character of the habitat for the different big game species. For example, habitat suitable for deer is more plentiful than habitat suitable for mountain goats and coastal brown bears. In addition, the revised proposed fee schedule tracks the broader market in not distinguishing between hunts with and without camping (Final Phase IT Report at 41).

Equipment Services

This activity allows an outfitter to deliver and pick up equipment and vehicles on NFS lands for clients, including kayaks, snowmobiles, bicycles, camping gear, etc. for one flat fee per day.

Comparison of the Initial and Revised Proposed Fee Policies

Table 2 displays the Alaska Region activities in column 1. Column 2 shows the 2006 fees that were charged for the current activities. Fees that would have been charged under the initial proposed fee policy are shown in column 3. The BUPM fees from the BSR market study are shown in column 4. The revised proposed fees are shown in column 5.

TABLE 2.—COMPARISON OF INITIAL AND REVISED PROPOSED OUTFITTING AND GUIDING LAND USE FOES FOR THE ALASKA REGION

Activities	2006 fees	2006 modified ARIFFP fees	BUPM fees	Revised proposed fees
Fees for recreation use are charged per client day				
General Recreation:				
Road-Based Nature Tours	$0.57	$2.16	$5.00	$5.00
Remote-Setting Nature Tours	2.83	13.80	5.00	5.00
Flight-Seeing Landing Tours	2.26	6.76	5.00	5.00
Helicopter Landing Tours	2.83	8.12	5.00	5.00
Dog Sled Tours	2.83	4.87	5.00	5.00
Camping	4.52	5.68	5.00	5.00
Road-Based Wildlife Viewing	0.57	2.16	5.00	5.00
Remote Wildlife Viewing	2.83	8.12	5.00	5.00
Visitor Centers *	0.57	1.62	4.00	1.50
Over-Snow Vehicle Tours	4.52	4.87	10.00	10.00
Heli-Skiing Tours	8.76	22.19	5.00	10.00
Freshwater Fishing	2.83	9.74	10.00	10.00
Waterfowl and Small Game Hunting (including wolf)	5.65	12.99	10.00	10.00
Fees for big game hunting are charged by the hunt				
Brown Bear:				
Day Use	158.27	389.63	625.00	330.00
Camping	220.43	497.86	665.00	330.00
Black Bear:				
Day Use	79.12	119.05	185.00	150.00
Camping	135.66	211.05	205.00	150.00
Elk:				
Day Use	N/A	119.05	220.00	200.00
Camping	.....	211.05	245.00	200.00
Moose:				
Day Use	N/A	119.05	270.00	200.00
Camping	.....	211.05	300.00	200.00
Mountain Goats and Dali:				
Sheep:				
Day Use	118.70	248.93	220.00	200.00

TABLE 2.—COMPARISON OF INITIAL AND REVISED PROPOSED OUTFITTING AND GUIDING LAND USE FOES FOR THE ALASKA REGION—Continued

Activities	2006 fees	2006 modified ARIFFP fees	BUPM fees	Revised proposed fees
Camping	146.95	319.28	245.00	200.00
Deer:				
Day Use	33.91	70.35	105.00	100.00
Camping	79.12	92.00	125.00	100.00
Equipment services are charged per day				
Delivery and/or Pick-Up of Motorized and Nonmotorized Equipment, such as Kayaks, Over-Snow Vehicles, and Camping Equipment, to National Forest System Lands	6.25	6.76	10.00	10.00

* Visitor center flat fees do not include fees paid by visitors authorized under the Federal Lands Recreation Enhancement Act.

Implementation

The Alaska Region intends to conduct a market review every five years to update the land use fees for outfitting and guiding in the Region based on a market survey of fees charged by non-federal landowners for unguided recreational activities that are comparable to those conducted by outfitters and guides in the Alaska Region. As part of the market survey, the Alaska Region will evaluate market data regarding comparable unguided recreational activities conducted on non-federal land that are submitted by the outfitting and guiding industry and outfitters and guides in the Alaska Region.

Regulatory Certifications

Environmental Impact

This proposed policy would establish administrative fee categories and procedures for calculating permit fees for outfitters and guides operating in the Alaska Region of the Forest Service. Section 31.12 (formerly section 31.1b) of FSH 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement ''rules, regulations or policies to establish Service-wide administrative procedures, program processes or instructions.'' The Alaska Region's preliminary assessment is that this proposed policy falls within this category of actions and that no extraordinary circumstances exist, which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made on adoption of the final policy.

Regulatory Impact

This proposed policy has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. It has been determined that this not a significant policy. The proposed policy could not and might not reasonably be anticipated to lead to an annual effect of $100 million or more on or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; raise novel legal or policy issues; or materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of beneficiaries of those programs. Accordingly, this proposed policy is not subject to OMB review under Executive Order 12866, as amended by Executive Order 13422.

This proposed policy has also been considered in light of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*). The revised proposed flat fee policy would affect a substantial number of small entities. However, the impact on those entities would not be significant. The proposed fee increases are not significant when compared to the amounts charged by these entities to their clients and could readily be absorbed. Accordingly, the revised proposed flat fee policy would not affect the competitive position of small entities in relation to large entities, nor would the revised proposed flat fee policy substantially affect small entities' cash flow, liquidity, or ability to remain in the market. In addition, the revised proposed flat fee policy would not impose new record-keeping requirements on small business holders of special use authorizations. To the contrary, the greater efficiency and consistency achieved by the revised proposed policy in simplifying the fee categories and the method for updating fees would benefit both outfitters and guides in the Alaska Region and the Forest Service. Therefore, no further analysis is required under the Regulatory Flexibility Act.

No Takings Implications

This proposed policy has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed policy would not pose the risk of a taking of private property.

Civil Justice Reform

This proposed policy has been reviewed under Executive Order 12988 on civil justice reform. If this proposed policy were adopted, (1) all state and local laws and regulations that are in conflict with this proposed policy or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed policy; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) which the President signed into law on March 22, 1995, the Alaska Region has assessed the effects of the proposed policy on state, local, and tribal governments and the private sector. This proposed policy would not compel the expenditure of $100 million or more by any state, local, or tribal government or anyone in the private sector. Therefore, a statement under Section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The Alaska Region has considered this proposed policy directive under the requirements of Executive Order 13132 on federalism and has determined that the proposed policy would conform with the federalism principles set out in

this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Alaska Region has determined that no further assessment of federalism implications is necessary.

Moreover, this proposed policy would not have Tribal implications as defined by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' and therefore advance consultation with Tribes is not required.

Energy Effects

This proposed policy has been reviewed under Executive Order 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this proposed policy would not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

This proposed policy does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. The information collection being requested as a result of this action has been approved by OMB. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Dated: April 10, 2008.

Paul K. Brewster,

Deputy Regional Forester, Alaska Region.

[FR Doc. E8–8239 Filed 4–17–08; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* May 18, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov*.

SUPPLEMENTARY INFORMATION: On February 8 and February 22, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 7521; 9766) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

Tray, Mess, Compartmented

NSN: 7350–01–012–8787.
NPA: The Lighthouse f/t Blind in New Orleans, New Orleans, LA.
Coverage: B-List for the broad Government requirement as specified by the General Services Administration.
Contracting Activity: General Services Administration, Southwest Supply Center, Fort Worth, TX.

Services

Service Type/Location(s): Administrative & Mailroom Support Services, U.S. Department of Housing and Urban Development (5 Locations):
Fort Worth Regional Office, 801 Cherry Street, Room 2500, Fort Worth, TX.
Lubbock Office, 1205 Texas Avenue, Suite 511, Lubbock, TX.
Memphis Field Office, 200 Jefferson Avenue, Suite 300, Memphis, TN.
San Antonio Field Office, One Alameda Center, 106 S. St. Mary's Street, Suite 405, San Antonio, TX.
Shreveport Field Office, 401 Edwards Street, Suite 1510, Shreveport, LA.
NPA: Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: U.S. Department of Housing and Urban Development, Office of Field Administrative Resources (OFAR), Atlanta, GA.

Service Type/Location: Base Supply Center, Base Supply Center, Naval Station Newport, Newport, RI.
NPA: Central Association for the Blind & Visually Impaired, Utica, NY.
Contracting Activity: Fleet and Industrial Supply Center (FISC), Norfolk Contracting Department, Groton, CT.

Service Type/Location: Custodial Services, U.S. Army Corps of Engineers, Lake Michigan Area Office, 307 South Harbor Street, Grand Haven, MI.
NPA: Goodwill Industries of West Michigan, Inc., Muskegon, MI.
Contracting Activity: U.S. Army Corps of Engineers—Detroit, Detroit, MI.

Service Type/Location: Laundry Services, Blanchfield Army Community Hospital (BACH), Fort Campbell, KY.

NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Department of the Army, Southeast Regional Contracting Office (SERCO), Fort Gordon, GA.

Service Type/Location: Laundry Services, Fort Campbell, Fort Campbell, KY.
NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Department of the Army, Army Contracting Agency, Directorate of Contacting, Fort Campbell, KY.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Patrick Rowe,

Deputy Executive Director.

[FR Doc. E8–8367 Filed 4–17–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.