

§ 13.83

36 CFR Ch. I (7-1-06 Edition)

(3) A change in the controlling interest of the historical operator through sale, assignment, devise, transfer, or by any other means, direct or indirect. A change in the controlling interest of a historical operator that results only in the acquisition of the controlling interest by an individual or individuals who were personally engaged in the visitor services activities of the historical operator before January 1, 1979, will not be deemed a change in the historical operator's controlling interest for the purposes of this subpart.

(4) A historical operator's failure to provide the authorized services for more than 24 consecutive months.

(h) The Director may authorize other persons to provide visitor services in a park area in addition to historical operators.

EFFECTIVE DATE NOTE: At 61 FR 54340, Oct. 18, 1996, §13.82 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 13.83 Preferred operators.

(a) In selecting persons to provide visitor services for a park area, the Director will, if the number of visitor services authorizations is to be limited, give a preference (subject to any rights of historical operators or CIRI under this subpart) to preferred operators determined qualified to provide such visitor services.

(b) In such circumstances, the Director will publicly solicit competitive offers for persons to apply for a visitor services authorization, or the renewal of such an authorization, to provide such visitor services pursuant to 36 CFR part 51 and/or other National Park Service procedures. All offerors, including preferred operators, must submit a responsive offer to the solicitation in order to be considered for the authorization. If the best offer from a preferred operator is at least substantially equal to the best offer from a non-preferred operator, the preferred operator will receive authorization. If an offer from a person besides a preferred operator is determined to be the best offer (and no preferred operator submits a responsive offer that is substantially equal to it), the preferred op-

erator who submitted the best offer from among the offers submitted by preferred operators will be given the opportunity, by amending its offer, to meet the terms and conditions of the best offer received. If the amended offer of such a preferred operator is considered by the Director as at least substantially equal to the best offer, the preferred operator will receive the visitor service authorization. If a preferred operator does not amend its offer to meet the terms and conditions of the best offer, the Director will issue the authorization to the person who submitted the best offer in response to the solicitation.

(c) The Native Corporation(s) determined to be "most directly affected" under this subpart and local residents have equal preference. The rights of preferred operators under this section take precedence over the right of preference that may be granted to existing satisfactory National Park Service concessioners pursuant to the Concessions Policy Act (16 U.S.C. 20) and its implementing regulations and procedures, but do not take precedence over the rights of historical operators or CIRI as described in this subpart.

(d) An offer from a preferred operator under this subpart, if the offer is in the form of a joint venture, will not be considered valid unless it documents to the satisfaction of the Director that the preferred operator holds the controlling interest in the joint venture.

(e) Nothing in this subpart will prohibit the Director from authorizing persons besides preferred operators to provide visitor services in park areas as long as the procedures described in this section have been followed. Preferred operators are not entitled by this section to provide all visitor services in a park area.

(f) The preferences described in this section may not be sold, assigned, transferred or devised, directly or indirectly.

EFFECTIVE DATE NOTE: At 61 FR 54340, Oct. 18, 1996, §13.83 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.