



Public Employees for Environmental Responsibility

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October 30, 2017

Ms. Mary L. Kendall
Deputy Inspector General
U.S. Department of Interior
1849 C Street, NW
Mail Stop 4428
Washington, DC 20240

RE: Request for Program Evaluation and Audit: Residential Environmental Learning Centers (RLCs) Operating Within National Parks

Dear Deputy Inspector General Kendall:

I am writing on behalf of Public Employees for Environmental Responsibility (PEER) to request that your office review the operations of Residential Environmental Learning Centers (RLCs) inside national parks. PEER believes that many of the RLC activities are contrary to law and are supported by improper yet substantial monetary and in-kind taxpayer subsidies.

Seventeen RLCs are currently operating within the National Park System, at major national parks including Yellowstone, Acadia, Great Smoky Mountains, Mt. Rainier, Glacier, Grand Teton, North Cascades, and Denali.¹ The RLCs are non-profits with the stated goals of providing educational experiences to visitors and students in National Parks.²

As detailed below, we believe that the National Park Service (NPS) has been bypassing the typical contract requirements designed for non-governmental service providers within National Parks. In addition, many of the RLCs are providing services that are not educational and mirror the services provided by concessioners, thus circumventing the requirements of the National Park Concessions Management Improvement Act (Concessions Act),³ the Cooperative Agreement Act,⁴ and the National Park Service and Related Programs Act (NPS Act).⁵

By failing to follow the proper legal contract procedures, the RLCs are depriving the NPS of franchise fees while still taking advantage of NPS personnel, services, and grants. Additionally, we are concerned they are putting concessioners and National Park visitors at a disadvantage by failing to go through the competitive bidding process to operate within Parks. By not going through the competitive process the visitors may be receiving inferior or more expensive park services and the concessioners that follow proper procedure do not have an opportunity to compete by offering cheaper or better services.

I. Illegal Circumvention of National Park Concessions Management Improvement Act

The Concessions Act mandates that private parties offering park services in National Parks go through a competitive bidding process and pay NPS a franchise fee based on their revenue.⁶ When selecting a concessioner the NPS must consider if the rates are reasonable, the background of the bidder, and the proposed franchise fees.⁷ Additionally, the rates charged by concessioners must be approved by the NPS.⁸ Concession specialists use an economic measurement to make sure that rates are fair to park visitors based on the quality of the offering.⁹ There is no similar quality control requirement for the RLCs offerings.

The Concessions Act covers persons, corporations, or other entities that provide services to visitors to units of the National Parks.¹⁰ Visitor services are defined as:

accommodations, facilities and services determined by the Director as necessary and appropriate for public use and enjoyment of a park area provided to park area visitors for a fee or charge by a person other than the Director . . . [and] may include, but are not limited to, lodging, campgrounds, food service, merchandising, tours, recreational activities, guiding, transportation, and equipment rental. Visitor services also include the sale of interpretive materials or the conduct of interpretive programs for a fee or charge to visitors.¹¹

A survey of the offerings on the websites of the RLCs shows that they offer services inside national parks that mirror the jurisdiction of the Concessions Act. These include-

- At least 6 offering lodging or cabin rentals;¹²
- At least 7 are running gift shops, bookstores, or markets;¹³
- At least 4 are running cafeterias or are otherwise selling meals; and¹⁴
- At least 3 are renting conference centers.¹⁵

There are limited exceptions where public solicitation does not need to be used which includes avoiding interruption of services and other extraordinary circumstances.¹⁶ However, those are meant to be temporary measures and to not apply to RLCs continuously operating in National Parks.

Thus, RLCs occupy retail space within national parks without undergoing competitive bidding, paying franchise fees, securing NPS approval of rates charged, or obtaining commercial use authorizations as required by the Concessions Act despite offering an array of visitor services covered by that Act.

II. Apparent Violations of National Park Service and Related Programs Act

In addition, many of the RLC contracts appear to be in violation of the leasing restrictions in the National Park Service and Related Programs Act (NPS Act). The NPS Act authorizes the leasing of property owned by NPS, but stipulates that the contract may not “authorize the lessee to engage in activities that are subject to authorization. . .through a concessions contract,

commercial use authorization, or similar instrument.”¹⁷ When the RLCs lease the buildings or property ordinarily used for lodging or weddings that are subject to the Concessions Act, such leases are in violation of the NPS Act.

III. Improper Cooperative Agreements

In lieu of concession contracts or commercial use authorizations, the RLCs are contracting with NPS using cooperative agreements. The Cooperative Agreement Act specifies that any cooperative agreement between the federal agency and a third party are limited to those where “[t]he principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipients to carry out a public purpose,” with substantial involvement from the agency.¹⁸

If the recipient of the cooperative agreement is providing services that are not furthering the purpose of National Parks and is instead a money-making venture selling experiences and commodities, it may not meet the qualifications for a cooperative agreement. What constitutes a “public purpose” for the purpose of the NPS is clarified in the NPS Act which mandates that the NPS only enter cooperative agreements –

- With “public or private educational institutions, States, and political subdivisions of States to develop adequate, coordinated, cooperative research and training programs concerning the resources of the System.” and
- For “educational lectures in or in the vicinity of and with respect to System units, and services of field employees in cooperation with such nonprofit scientific and historical societies engaged in educational work in the System.”¹⁹

Thus, cooperative agreements are reserved for a very limited scope of research, training, and educational agreements. The RLCs, however, are involved in a wide array of activities that are not related to research, training, or education. For example –

- Cuyahoga Valley Institute offers yoga, meditation, quilting, concerts, and winter solstice parties.²⁰
- Denali Education Center holds an artisan and farmers market.²¹
- Indiana Dunes Education Center holds a “diva of the dunes weekend” that includes smoothie making and stylists makeovers;²² and
- The Pocono Environmental Education Center offers a mindfulness program, quilting, yoga, a wine tasting, and a painting class.²³

The RLCs appear to take the position that because an activity, such as a wine tasting or a yoga class, occurs inside a national park, the activity therefore is educational about the NPS mission. PEER believes that that is an unreasonable interpretation and that much of the RLC menu of activities fall outside the narrow parameters of NPS cooperative agreements authorized under the statute.

IV. NPS Losing Revenues and Resources in Support of RLCs.

A. Franchise Fees.

A concessioner that runs a gift shop, rents lodging, or sells food within the park is required to pay a franchise fee ranging from 5 – 16 percent of their revenue, while the RLCs are operating the same park service without any franchise fee requirement. For example –

- NatureBridge charges between \$11,995 - \$17,995 for a wedding in one of their park venues, up to \$2,300 to rent a conference room at Golden Gate National Recreation Area and include add-ons, such as, a \$50 LCD projector rental or a \$17 per person dinner buffet.²⁴
- North Cascades Environmental Learning Center charges a minimum of \$17,000 for a wedding at their center and charges \$250 for a harvest dinner.²⁵
- The Pocono Environmental Education Center charges as much as \$450 per night to rent a cabin and a \$25 per person farm to table dinners;²⁶ and
- The Cuyahoga Valley Environmental Education Center charges \$185 for a lobster and clam dinner.²⁷

Not a penny of this revenue goes back to NPS.

To put the overall the amounts lost into some overall perspective, the 2016 financial disclosures Cuyahoga Valley Institute brings in over \$990,000 in revenue through their gift shop, lodging rentals, and weddings annually.²⁸ By not collecting a franchise fee NPS is losing out on between \$45,000 - \$135,000 annually, from one RLC alone.²⁹

Similarly, the North Cascades Environmental Learning Center's 2016 financial audit reveals that it had over \$193,000 in revenue through rentals and retail sales, suggesting that NPS could receive \$10,000- \$35,000 if North Cascades had a concessions agreement for these services.

Finally, in their 2016 Annual Report NatureBridge reports grossing \$1,209,555 from adult programs and conferences independent from any environmental science program grants, or summer and community programs. It is likely that a large percentage of this is based on weddings, conference rentals, and lodging rental. Based on these numbers, NPS may be losing out on \$60,000-181,000 annually in franchise fees from NatureBridge.

These examples demonstrate that substantial revenue may be lost due to NPS's current inability to collect franchise fees. However, the true extent of the monetary losses to NPS will only be revealed through a full investigation into the agreements between NPS and the RLCs and an audit of those revenue streams.

B. In-Kind and Support Services

In addition, the NPS is subsidizing these RLCs by providing support services without compensation. Host parks provide RLCs in-kind support such as –

- Staff, oversight and assistance with permits (such as weddings and other special events);
- Emergency services, health and safety inspections and other compliance oversight for proposed projects;
- Waste disposal, water treatment, and facility maintenance; and
- Use of vehicles and vessels.

In some cases, NPS also provides direct funding to the RLCs through cash grants. The cost to the government for all this support is significant but has not been fully tallied.

V. RLCs May Disadvantage Visitors

A concessioner in the same Park as an RLC is surely at a competitive disadvantage providing their services compared to an RLC providing similar service the Park's patrons without having to pay franchise for other additional expenses. However, this competitive disadvantage does not necessarily benefit visitors who patronize RLC services.

Because the NPS does not review or approve RLC rates, visitors may be charged for services at rates well above market rates. The NPS also fails to ensure that savings from RLCs bypassing franchise fees are passed on to park visitor/customers.

Similarly, neither the NPS nor any other outside entity vet the quality of services that RLCs sell. Consequently, the host park has few tools to protect its visitors from possible abuses in the provision of RLC services.

Additionally, with the increased presence of and products by partner organizations, the public misses out on free access to agency-led programs and products.

Finally, the public expects from the service providers inside a national park that their programs and products would reflect the mission and interpretative themes of the NPS. Partner organizations, such as RLCs, sometimes espouse their advocacy positions and perspectives, on topics such as hunting, logging, etc., which may not mirror those of the agency.

Conclusion

We hope that the scope of the problems we have outlined convinces your office of the need to undertake both a performance review of this process and a financial audit to determine the extent of revenue and resource losses to the NPS.

We understand that your office is already conducting a review of national park Friends Groups and NPS Cooperating Associations. As some RLCs operate Cooperating Associations or are also Friend Groups, there may be considerable overlap in the work you are already undertaking. We urge you to consider expanding the scope of this current review to encompass the arrangements under which RLCs operate.

If you have any questions or desire any further documentation, please do not hesitate to contact me. Thank you for your consideration of this request.

Sincerely,

Jeff Ruch
Executive Director