

National Park Service LEASING PROGRAM ASSESSMENT

Final Report: Findings and Recommendations

Prepared for the Commercial Services Program, National Park Service

Prepared by:

Kristen McConnell

Stephanie Hester

Geoff Kish

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777 6th St., NW • Suite 700 • Washington, D.C. 20001-3723

Tel: +1 (202) 223-NPCA (6772) • Fax: +1 (202) 659-0650

center@npca.org • www.npca.org

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EXECUTIVE SUMMARY

Between August 2009 and October 2010, the National Park Service's (NPS) Commercial Services Program (CSP) partnered with the Center for Park Management (CPM) on a project designed to assess the Service's Leasing Program as it relates to 36 CFR Part 18. Specifically, CPM conducted an assessment of the Leasing Program to identify how effectively the NPS is using its Part 18 leasing authorities for the benefit of park areas and the National Park System in order to make recommendations to the NPS to strengthen the program. This report contains an overview of the leasing program, the findings of the assessment, and strategic recommendations for improving the NPS Leasing Program.

The leasing authorities, passed in 1998, are an instrument for parks to maintain historic and modern buildings that are not suitable for a concession nor needed for park operations. The exercise of these authorities is intended to enable a park to work with private, public, and non-profit entities to rehabilitate and maintain these assets, thereby earning revenue from leasing activities for maintenance and preservation purposes in accordance with the park's mission.

Given that the leasing authorities are relatively new, the Leasing Program has recently reached a stage in its development where this assessment

is both needed and immediately applicable. The majority of interviewees confirmed that the benefits of leasing outweigh the hurdles. CPM's data collection also revealed that parks and regions feel that improvements to the program could help maximize these benefits. Findings in this report are categorized as relevant to (1) Leasing Program structure and capacity; (2) policy; or (3) process. Close analysis of the findings reveals that there are four primary barriers to the full use of the leasing authority by the National Park Service:

- Limited park-level awareness and understanding of the authority and program;
- A lack of connection between all NPS staff with leasing expertise, and associated absence of systematic knowledge building and sharing;
- Financial challenges to successful lease execution – specifically, the appraisal process, and the inability to successfully market or find funding for stabilizing deteriorated facilities; and
- The absence of a strategic, coordinated approach to support existing and potential leasing opportunities.

The recommendations, developed by CPM but refined through discussion with the NPS, are aimed at mitigating the four primary barriers listed above. It is important to note that the Leasing Program currently operates without a dedicated funding stream for Washington and Regional office support. While some of these recommendations are implementable with little to no additional resources or

CPM conducted an assessment of the Leasing Program to identify how effectively the NPS is using its Part 18 leasing authorities for the benefit of park areas . . .

funding, others will require the commitment for more dedicated funding for program management.

Build a Community of Experts

- Identify the leasing community members and establish opportunities for them to connect
- Evaluate current knowledge sharing mechanisms and determine how best to collect, review, organize, and share leasing information
- Accelerate the sharing of expertise by forming an internal advisory group
- Focus on increasing information-sharing efforts between NPS and the staff tasked with leasing for the Office of Valuation Services (OVS) and the Solicitor's Office

Increase Park-level Awareness and Understanding

- Define the roles and responsibilities of leasing program staff
- Develop trainings to meet the needs of employees engaged in leasing
- Design orientation to leasing for parks with new or less mature leasing activities
- Communicate importance of leasing authority to accomplishing park mission

Mitigate Financial Obstacles to Successful Lease Execution

- Minimize the negative impact of the appraisal on the length and cost of the lease execution process through alternative financing and clear expectations

Throughout this project, the parks currently using the leasing authorities testified to the benefits of leasing as well as to the potential to improve the program.

- Direct attention in early stages of lease process to parks with facilities in need of rehabilitation

Strategically Target Leasing Opportunities and Program Development

- Proactively, systematically, and collaboratively identify leasing opportunities
- Design and implement a continuous improvement process for the program and individual parks

The report concludes with a prioritization of the recommendations based on ease of implementation and potential beneficial effect. This matrix was developed to help phase implementation of recommendations based on program priorities and the limited amount of funding available. Several recommendations are identified as quick wins, and funding implications and best practices in implementation are discussed.

Throughout this project, the parks currently using the leasing authorities testified to the benefits of leasing as well as to the potential to improve the program. The findings and recommendations in this report are all presented with the confidence that NPS is ready to invest the necessary resources to support the growth of this program. With this support, leasing administrators will be able to develop a more coordinated, strategic, and robust means of fully utilizing the leasing authority for the greatest benefit of the parks and their missions.

LEASING PROGRAM ASSESSMENT: INTRODUCTION AND BACKGROUND

INTRODUCTION

Between August 2009 and October 2010, the National Park Service's (NPS) Commercial Services Program (CSP) partnered with the Center for Park Management (CPM) on a project designed to assess the Service's Leasing Program as it relates to 36 CFR Part 18. Specifically, CPM conducted an assessment of the Leasing Program in order to identify how effectively NPS is using its Part 18 leasing authorities for the benefit of park areas and the National Park System, in order to strengthen and grow the program. The assessment methodology included qualitative data collection and the development of a prototype database to be used by Leasing Program administrators, and concludes with this comprehensive report that consolidates the information gathered to identify strategic recommendations for the program.

In addition to reporting findings and explaining strategic recommendations, this report describes the background of the Leasing Program, outlines the research methodology employed by the CPM project team, and provides the NPS with a framework for prioritizing recommendations and planning for implementation.

LEASING PROGRAM BACKGROUND

For a number of years NPS has leased park area real properties under the terms of several statutory authorities. Prior to 1998, these authorities were limited with respect to the type of properties that were subject to leasing and applicable conditions. However, in 1998, Public Law 105-391 gave NPS broad authority to lease a variety of park properties

to private parties or government entities (subject to a number of conditions and procedures). The leasing authorities are an instrument for parks responsible for maintaining a large number of historic and modern buildings that are not suitable for a concession or needed for park operations. The exercise of these authorities is intended

Given that the leasing authorities are relatively new, the program has been in a period of program development.

to enable a park to work with private, public, and non-profit entities to rehabilitate and maintain these assets, thereby earning revenue from leasing activities for maintenance and preservation purposes in accordance with the park's mission.

Given that the leasing authorities are relatively new, the program has been in a period of program development. In 2003 NPS began implementation of this broad authority by adopting comprehensive regulations (36 CFR Part 18 – see Appendix A) to guide the leasing of park area properties and provide additional policies and guidance through Director's Order 38 (issued January 20, 2006) and the accompanying NPS Leasing Reference Manual (issued 2005). There are two regulations that govern leasing of park real property—36 CFR Part 17 and Part 18. Part 17 pertains to land acquired from non-federal sources. CPM's assessment and recommendations are focused on Part 18 leases.

The NPS Leasing Program is overseen by the NPS Commercial Services Program (CSP), and administered through individual park areas with the assistance of the applicable NPS regions. Each region administers the program differently, but

It is important to note that due to such diversity in leasing activities, the findings and recommendations in this report are often not “one-size-fits-all.”

all have a staff person with at least a collateral responsibility for regional leasing activities; several regions have full-time leasing coordinators. Likewise, there is a wide range of leasing activity across park units; a few parks have robust, revenue-generating leasing, but most parks manage

only a few leases if any at all, since not all parks have leasable assets. Anecdotal evidence suggests that there is potential to “grow” the Leasing Program by encouraging more parks to participate, but there is no tangible data to support this claim. Some staff are funded by the CSP, but the overall program does not receive programmatic base funding; lease revenue remains in the parks for infrastructure and facility maintenance.

Further, there is a broad range of diversity in leasing types and activities, ranging from residen-

tial to commercial to non-profit, as well as the size and staff capacity of the park administering the Leasing Program. Leasable properties range from turnkey properties to dilapidated structures that need extensive rehabilitation before the property can be leased and from large-scale retreats to private domiciles. It is important to note that due to such diversity in leasing activities, the findings and recommendations in this report are often not “one-size-fits-all.” As a result, when a finding or recommendation in this report is specific to a particular NPS level [I.e., park, region, or Washington Support Office (WASO)]; type of lease; size of park; or other context, that limitation is noted.

Leasing Program Benefits	
Preservation and Historic Rehabilitation	<ul style="list-style-type: none"> Underutilized park structures are restored Provides funding for historic preservation and maintenance Provides NPS with option to offer preservation tax credit, as only income producing properties are eligible
Financial Value to NPS	<ul style="list-style-type: none"> NPS ownership of capital improvements made by lessee Repairs, renovation maintenance of park facilities and infrastructure Reduces workload for park maintenance staff Reduces park liability for hazardous assets Additional revenue for park
Maintenance of Park Assets	<ul style="list-style-type: none"> Park assets are refurbished with private sector development expertise and financing Assets continue to be well maintained, enhancing National Park Service mission
Community Enhancement	<ul style="list-style-type: none"> Fosters economic growth in the local community Strengthens relationship between park and local business Outreach to community

... financial gain is not the sole or even predominant benefit of the program. The mission-centric benefit of maintaining and preserving historic and non-historic assets was cited as the primary benefit of leasing ...

The leasing of park assets yields a variety of benefits for parks that utilize the authority.

In testimony before the Senate Energy and Natural Resources Subcommittee on National Parks in March 2001, Denis P. Galvin, Acting Director of the National Park Service stated: *“The new authority makes all qualified NPS buildings and associated property subject to lease under certain conditions. We estimate receiving about \$1,000,000 in lease receipts in 2001 with that amount increasing in future years as the leasing program is further implemented.”*¹ More recent NPS accounting records demonstrate that in fiscal year 2009, twenty-six parks reported leasing revenue that totaled 4.3 million dollars.² Closer analysis of reported leasing revenue (based on fiscal year 2009 revenue coded to PWE 101) reveals an average of \$166,288, and a median of only \$22,333 per park engaged in leasing. This information illustrates the current financial impact of leasing, as well as the vast diversity in scale of leasing activity across parks.

However, financial gain is not the sole or even predominant benefit of the program. The mission-centric benefit of maintaining and preserving historic and non-historic assets was cited as the

primary benefit of leasing during CPM’s discovery interviews with leasing administrators. Additional benefits mentioned include: reduction in workload for park maintenance staff; ownership of capital improvements made by lessees; outreach to community; and additional revenue for the park. The majority of interviewees noted that the leasing authority provides a flexible private sector tool to employ when assets are not necessary or appropriate for visitor services and are not needed for park use. In his congressional testimony, Galvin went on to assert that: “...we believe that the new regulations will provide the means for NPS to expand its leasing activities and take greater economic advantage of extraneous park buildings without impairing park resources.”³

While revenue from leasing activity proceeds is certainly an attractive and significant benefit, the value of rehabilitating, restoring, and maintaining park assets through the Leasing Program, particularly those that are historically significant, is a benefit that is not easily quantifiable but essentially important. Further refinement and the expansion of the Leasing Program could help achieve and maximize all of the benefits available through the statutory authorities available.

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¹ Statement of Denis P. Galvin, Acting Director, National Park Service, U.S. Department of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, Historic Preservation, and Recreation. Concerning the Implementation of P.L. 105-391, National Parks Omnibus Management Act of 1998. March 2001.

² NPS Accounting Operations Center, FY2009 revenue recorded under PWE 101, emailed December 14, 2009.

³ Statement of Denis P. Galvin, 2001.

LEASING PROGRAM ASSESSMENT: PROJECT OVERVIEW

The initial scope for this project directed the CPM project team to assess the extent to which the NPS is using the leasing authority for park benefit, determine how improvements might be made to the Leasing Program, collect an inventory of all active leases, and develop a database to be used to house and administer all leases collected. As the project progressed, NPS requested that CPM devote more focus to the assessment and recommendations than the database and lease inventory. The following sections detail the project activities conducted for each component of the project.

RESEARCH METHODOLOGY AND RECOMMENDATION DEVELOPMENT

The CPM project team began developing the research methodology in August 2009 through several in-depth discussions with NPS Leasing Program experts. These informal conversations enabled the team to identify the key areas of interest, as well as foundational program documents. Based upon these discussions and document review, the team developed an interview protocol (see Appendix B) and refined it with the NPS Leasing Program points of contact. The interview protocol solicits feedback on the lease execution process, lease administration, training and support, communication, continuous improvement, and lessons learned, as well as the interviewee's own background and leasing experience. The team also participated in a detailed walk-through of the RM38: Leasing Reference Manual for 36 CFR Part 18 and conducted a broad literature and best practice review.

CPM worked with NPS point of contacts to develop an initial interviewee list composed of NPS leasing administrators and those knowledgeable about or involved with the program at varying levels and in different capacities. Through the interview process other individuals with leasing knowledge or experience were identified and interviewed. This type of research, connecting with new interviewees through in-situ references, is commonly known as the "snowball" sampling method. The final list of suggested interviewees totaled thirty-seven individuals, thirty-three of whom were available to be interviewed for this project.

It is important to note that all individuals selected for interviews had first-hand knowledge of the Leasing Program and activities; therefore, this report is unable to draw upon the opinions of those parks that have prospective leasable facilities but are not actively engaged in leasing. A few interviewees discussed their perceptions of peers who do not participate in leasing and those perceptions were considered during the interview analysis.

Between November 2009 and January 2010, CPM's three-member project team interviewed thirty-three individuals; fifteen in-person and eighteen by phone. Interviewees represented park, regional, and WASO staff across all NPS regions, as well as other individuals with experience or expertise in leasing NPS assets. These interviewees include lessees, private sector leasing consultants, the Office of Valuation Services (OVS)⁴, NPS land acquisition and cultural resource divisions, and Department of the Interior (DOI) Solicitors. The

⁴ Formerly named the Appraisal Services Directorate (ASD). See footnote on page 14 for more information.

Park/Office Region	# of Individuals Interviewed
Alaska	3
Intermountain	1
Midwest	5
National Capital	1
Northeast	8
Pacific West	5
Southeast	1
Washington Service Office	4
Other (contractors, OVS, etc.)	5

interview protocol was followed for each interview to ensure consistency during collection and analysis. In order to encourage interviewees to respond openly and candidly, interviewees were assured that interview data would be recorded confidentially and anonymously.

In addition to conducting interviews, CPM reviewed thirty-five documents, one audio transcript, and two websites containing information on NPS leasing activities. This review included relevant legislation, Director's Order #38, the leasing reference manual (RM38), executed leases, and reports from prior assessments of the program. Financial information on leasing revenue reported by park units was also used to provide further context and identify potential interviewees. Additionally, the CPM team reviewed documents submitted by interviewees that helped support findings from the primary data collection (see Appendix E: References).

The primary focus of the qualitative data analysis was to gather information that identified challenges, issues, and best practices with three components of the Leasing Program: (1) structure and capacity; (2) policy; and (3) process. Where

three or more interviewees described a particular concept or perception, the concept was noted as a relevant theme and incorporated in the findings that follow. It is important to underscore that all findings were corroborated by at least three interviewees, unless specifically noted otherwise. Improvements or recommendations suggested by single interviewees were noted and considered when developing the strategic recommendations but weighted appropriately. The CPM project team relied on a triangulation of interview data, document review, and feedback from program administrators to identify those findings that were mutually-agreed upon as conclusions.

CPM delivered an interim report titled: "National Park Service Leasing Program Assessment: Summary of Primary Research Findings" to the NPS CSP in February 2010. The interim report summarized the methodology and reported the findings based on the research completed. The draft of this report was reviewed by five NPS leasing experts, who provided feedback designed to deepen and improve the quality of the findings. In addition to NPS's review, CPM engaged a subject matter expert with substantial experience in private sector leasing, public-private partnerships, real estate, and legal issues to review the findings report and provide the project team with additional insight.

The final step in this segment of work was the development of strategic recommendations for improving the Leasing Program. The CPM project

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ect team compiled the findings with the additional recommendations made during interviews, the subject matter expert perspective, and informal conversations with the NPS leasing program managers to develop an initial set of recommendations. These recommendations were examined to ensure completeness and coherence across each component and level of the leasing program.

The draft recommendations were then submitted to the NPS for review and refined during a two-day meeting facilitated by CPM in September 2010. The final set of recommendations presented in this report are strategic, realistic, and relevant ways to improve the leasing program and ensure that the leasing authority is being used for the maximum available benefit across the entire Park Service. As previously stated, the NPS ability to implement the full set of recommendations will depend upon whether the program is able to secure additional funding or resources.

DATABASE OF EXISTING NPS LEASES

In addition to conducting an analysis of the current leasing program, CPM was also asked to assist with the development of a database to house all leases signed with NPS park units and regions. Currently a single repository to reference and understand leasing activity agency-wide does not exist. When

completed, this database will allow NPS to analyze aggregate leasing program revenue and quantify uses of the authority across the Service. It will also provide quantitative data (total number of leases, total NPS lease revenue) that could be used by NPS to justify or shape future investment and management of the program.

Development of the database remains ongoing. CPM completed the initial stage of development, working with NPS project leads to identify requirements for the database including fields and reporting needs. A contractor hired by CPM translated NPS requirements into a prototype database. The database has undergone an initial review by NPS and will be now by migrated to Microsoft Access to facilitate compliance with NPS IT requirements. The database will undergo a second round of review by NPS project leads, followed by a field staff review.

Once the database is complete, NPS seeks to maintain a comprehensive inventory of all current NPS park area leases (that have a term of more than one year). Currently, leases are maintained either at a park or regional level. The NPS Leasing Program team will work with regions to procure copies of all current leases which will then be entered into the new leasing database.

LEASING PROGRAM ASSESSMENT: FINDINGS

The following sections summarize key findings from CPM's data collection process as reported during interviews and as discovered from a broad document review. As stated earlier, findings in this report were corroborated by at least three interviewees, unless specifically noted otherwise.

Discovery interviews revealed that several parks have successfully navigated the leasing process and used the authorities to maintain and rehabilitate a variety of different types of structures under NPS ownership. These parks understand that the process is complex and time consuming and have found ways to make their program work, whether working with subject matter experts, adopting Concession Program concepts, or reaching out to leasing experts within the Park Service. A positive attribute of the program that was repeated often is that it offers a level of autonomy and flexibility that allows parks to tailor their leasing activities to their needs, expertise, and resource realities.

Discovery interviews revealed that several parks have successfully navigated the leasing process and used the authorities to maintain and rehabilitate a variety of different types of structures under NPS ownership. These parks understand that the process is complex and time consuming and have found ways to make their program work . . .

The Leasing Program offers a variety of advantages that help the NPS better meet its mission, and the majority of interviewees felt that the benefits of leasing outweigh the hurdles. However, some expressed frustration about various aspects of the program. A review of interview data illustrates that although leasing activity across the Park Service is disparate and decentralized, the strengths and weaknesses of the program are common among those involved in leasing activities. The specifics may vary, but the overall obstacles and benefits are largely the same.

The findings that follow relate to areas in need of improvement that were identified during the data collection process. They are categorized as relevant to: (1) Leasing Program structure and capacity; (2) policy; or (3) process. The findings within each category are not listed in any specific order.

PROGRAM STRUCTURE AND CAPACITY

The NPS Leasing Program spans regions and levels, and a number of other agency employees—ranging from park-level business and cultural resource managers, to Solicitors and OVS appraisers—are involved in any given leasing project from beginning to end. The program is housed within the Commercial Services Program in Washington, DC (WASO), and is organized and administered differently in each region. Within parks, ongoing leasing activities are managed by a variety of positions depending on the size and scope of leasable assets, but are most often a single employee's collateral duty. The process of developing a lease (described in the "Process" section of this report) involves a large number of leasing program staff as well as staff from other NPS programs and offices. In order to understand the current structure and capacity issues related to the program, interviewees were asked to provide information on their own role as well

as their thoughts on the overall structure, organization, and staff capacity of the Leasing Program. The findings highlighted in bold below were supported by a majority of interviewees.

The process of developing a lease involves a large number of leasing program staff as well as staff from other NPS programs and offices.

- **The decentralized organization of the Leasing Program does not currently ensure that the right people are in the right positions to manage the program at all levels.** The leasing specialist position in WASO has been vacant for an extended period of time,⁵ and most Regions do not have dedicated Leasing Program Managers with the expertise in business and real estate necessary to guide parks through the lease execution process. Additionally, in many parks there is a **lack of capacity to administer leasing activities**. While a few parks with robust Leasing Programs have been able to carve out staff resources to manage their program, most parks are unable to allocate adequate staff to lease administration. Interviewees noted that these staffing gaps result in a lack of park-level understanding or acceptance of the program, inconsistent interpretations of program guidelines, and delays in execution and implementation of leases. It is likely that the inconsistent approach to program structure and staff is partially due to the absence of a dedicated programmatic funding stream.
- Additionally, some park **staff involved in leasing activities are unsure about what positions and skills are needed**. Administering a strong program involves a variety of skills and expertise. Staff involved can include: business managers, facility managers, historic architects, historic preservation specialists, resource managers, park planners, superintendents, project managers, solicitors, and historians. A particular need cited during interviews is staff with relevant real estate experience. **Parks and regions have limited staff that exhibit strong understanding or skill in real estate and business**. The Park Service does have real property specialists on staff, but they are most often not staffed to focus on leasing and are not readily available to provide leasing support.
- In addition to existing staffing gaps, **a lack of clarity and consistency of the role of each NPS level/stakeholder in the management of the program leads to confusion and inertia**. The management of the program is handled differently across regions and parks, and guidance on “who to ask what questions” is unclear. Interviewees at all levels noted that it is difficult to manage the program, anticipate requests, and communicate efficiently without an understanding of roles and responsibilities. The ebb and flow of leasing activities, which is by nature heavy on the front-end and less time intensive later in the process adds another layer of staffing complexity/complications.

⁵ While the leasing specialist position was indeed vacant through the duration of this project, a new staff member of the Commercial Services Program was dedicated part-time to the leasing program at the end of October 2010

- Some of the confusion regarding the management of the program may be due to a perception that the Leasing Program does not have a distinct identity within CSP. Several interviewees noted **that leasing process and policy are at times conflated with concessions by regional and WASO program administrators**, especially when no leasing-specific process or policy exists. Several interviewees also noted that the Leasing Program seems overshadowed by concessions activities, and isn't seen as a "real program" by the CSP. However, most agreed that the Leasing Program does belong within Commercial Services as it is a business function.
- **The impact of the Leasing Program is hindered by an inability to communicate broadly the ways in which the program positively impacts the National Park Service.** While park-level interviewees with substantial leasing experience didn't hesitate to list the benefits of the program, many noted that they are anomalies among their peers, who do not believe that the value is worth the effort involved to administer the program. Leasing Program benefits including those found on page 6 of this report are longstanding and were also noted in the 1997 report "Preserving Historic Structures in the National Park System: A Report to the President."
- In recent years the Leasing Program has developed structured guidance, specifically through the reference manual that accompanies Director's Order #38. While **parks with robust Leasing Programs reported that the leasing manual is an invaluable reference**, parks interested in or in the process of initiating a program feel overwhelmed citing that **the manual is difficult to navigate and the information within is sometimes difficult to comprehend.**
- An important component of capacity-building is training, and although there are ongoing trainings that include limited information on leasing (Superintendents Academy, Concession Specialist training), **there is not a consistent and comprehensive leasing curriculum or training schedule.** Leasing trainings have been offered intermittently in years past, and every interviewee who attended a training event underscored its usefulness. However, those currently involved in leasing or with leasable properties who want to establish a program have few options. Further, it was cited that existing support materials are difficult to find. The CPM project team was able to review documents from a webinar training offered in 2007, as well as a special leasing workshop held in 2003, but these were not widely distributed and/or archived so as to be available as a resource for current lease administrators.
- Finally, the growth of the Leasing Program is limited not only by staff capacity and expertise, but by communications and awareness. Interviewees perceived that leasing opportunities are not pursued or even realized, because **some park staff do not understand the objectives and benefits of leasing**, and are discouraged by the complexities, legalities, and density of the program. Specifically they are unsure how to initiate a program and feel overwhelmed by the prospect.

POLICY

Policy guides the management of the program, the oversight of leasing activities, and the approach that individual solicitors, regions, and parks take to leasing facilities. Several policy issues and constraints emerged during CPM's data collection. Some of these issues are related to the interpretation of policy while others concern the policies themselves. Although the leasing interview protocol focused primarily on program structure and processes, the six following policy-related findings were common issues mentioned by interviewees.

- Most critically, the **Secretarial order that requires the involvement of the DOI Office of Valuation Services (OVS, formerly the Appraisal Services Directorate, ASD) in all lease appraisals is cumbersome for many leasing situations.**⁶ Before the order, parks had the flexibility to work with local appraisers, which decreased the length of the process and tended to be less expensive. For example, interviewees stated that that on average it takes at least six months to complete an appraisal, and the cost of the appraisal sometimes exceeds the economic viability (that is, return to the park) of the lease. Interviewees at all levels consistently expressed the opinion that NPS needs authority to manage the appraisal process as it relates to the Leasing Program. However, an interviewee from the OVS stated that their role of independent auditor is important to the government's management of the financial risk that comes along with real estate activities. This policy issue significantly impacts the overall lease process, and is also discussed in the "Lease Preparation and Marketing" subsection on page 19 of this report.
- Additionally, interviewees noted that **the difficulty of determining fair market value (FMV) for unique park properties led to disagreements with OVS appraisers and delays in the overall lease execution process.** Interviewees held that the FMV determination method employed by OVS appraisers is not flexible enough to adjust market value for the limitations that are placed on the use of leasable park assets. For example, park staff believe that it is problematic to determine an accurate FMV when a property is in a remote park because it is difficult to find comparables. Another challenge noted is the ability to appraise the value of buildings that have zero or close to zero FMV due to deterioration. One interviewee stated that: "NPS leasing is not conventional real estate, so the convention real estate approach [to appraising] doesn't work."
- Interviewees cited that **there is not enough guidance that clearly interprets leasing policies.** The leasing manual was mentioned as useful written guidance for straightforward leases,

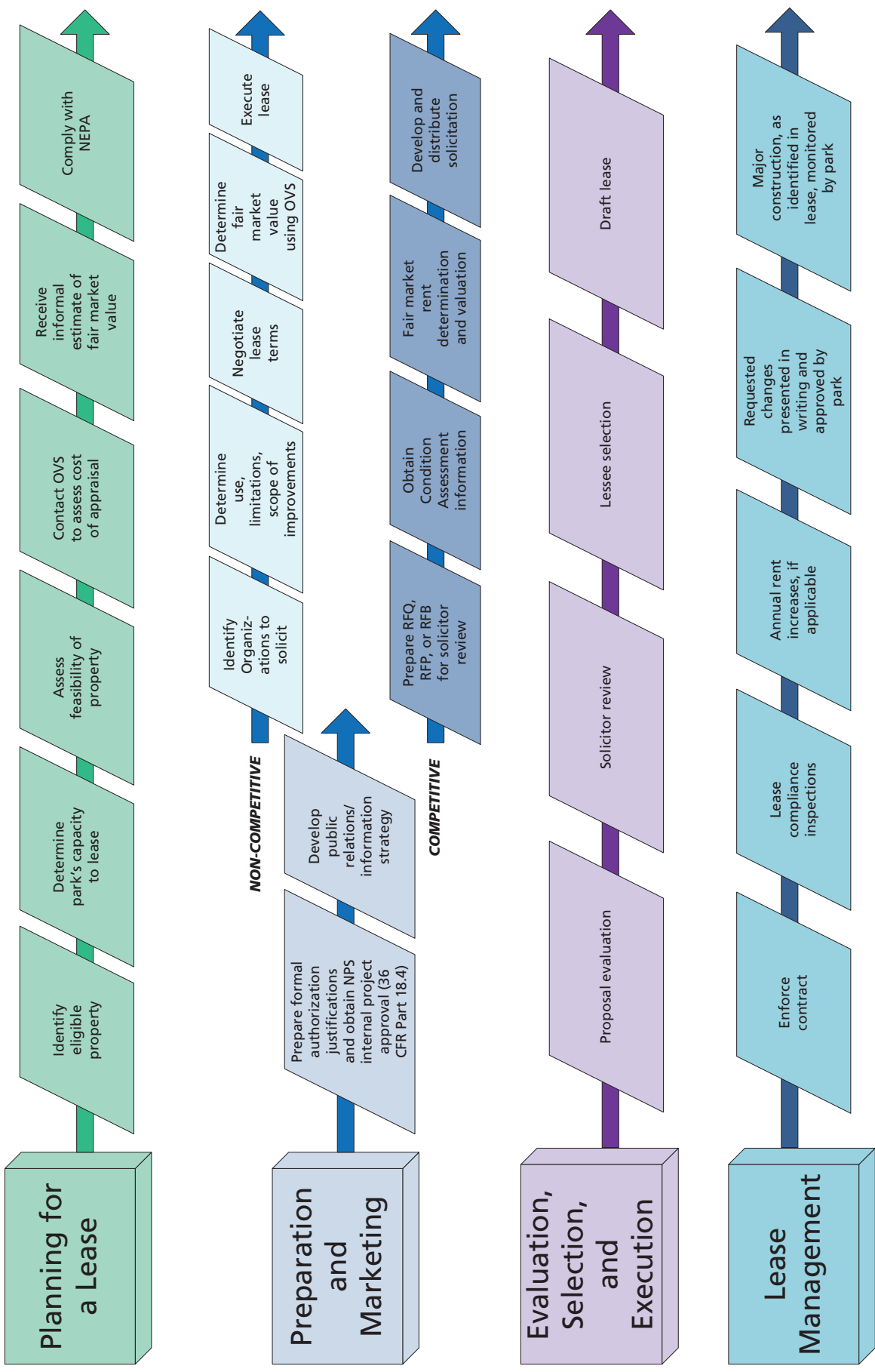
⁶ When this project began, and throughout data collection and analysis, the Office of Valuation Services (OVS) was named the Appraisal Services Directorate (ASD). By May 2010, ASD had changed its name to OVS, and it is currently preparing for an organizational restructure. Due to these changes, CPM conducted a follow up interview with OVS in November 2010 to determine whether they had any impact on this report. Given that OVS has not yet implemented the restructure, we are unable to make conclusions about impact at this time. However, all references to ASD in this report have been changed to OVS for consistency.

but interviewees pointed out that every lease is different, and therefore policy interpretation is almost always required. Park staff reported that oral guidance was sometimes inconsistent, and some perceived a region-to-region variation in legal interpretations from Regional Solicitors, which led to additional frustration or confusion. Additionally, when guidance was needed for specific steps during the lease execution process, interviewees were often unclear about which program stakeholders have the “final say.”

- Several interviewees indicated that **restrictions on uses for leasing revenue hinder their ability to build capacity to administer the program.** The leasing statute was written in part to keep leasing revenue in the park and direct it toward deferred maintenance needs. However, internal NPS policies do not allow parks to use any part of the revenue to fund permanent positions in parks or regions to manage their individual Leasing Program. Many parks administering leases feel that this policy is too restrictive and should be amended to allow for capacity building as it applies to administering their individual program. However, this is a finding for which there is some disagreement from parks and program administrators. These individuals suggested that lease revenue is one of the more flexible fund sources available within the NPS, and that the limitation for personnel use (if the revenue is used for personnel at all) to temporary or seasonal employees is appropriate.⁷
- Several interviewees believe that **the term of lease policy creates unneeded bureaucracy for small leases.** According to current policy, any lease with a term of ten years or more must be reviewed by the NPS Director. While interviewees agreed that this policy make sense for high-profile, high-revenue generating leases, they voiced concern that it adds additional time to the execution process for leases that produce little revenue. This is a finding with which program administrators disagree, and believe that the ten year approval requirement is a sound policy that minimizes legal and economic risk for the NPS.
- Interviewees across parks and regions also indicated that **converting a concession contract to a lease is very difficult and time consuming.** Not only are some parks unclear on how the distinction is made between some leases and concessions, but a perception exists that there is resistance by WASO to converting concessions to leases. WASO program administrators note that the limitations on conversion and specific definitions that delineate concessions from leases are appropriate and rooted in statute.

⁷ The guidance in 36 CFR Part 18 actually reads: “**(2) Use of Rent Proceeds.** Except as otherwise provided by law, including, 16 USC 470h-3 with respect to historic properties, rent proceeds from Part 18 leases are to be deposited in a special account in the Treasury of the United States and will be available until expended for infrastructure needs of the applicable park area, including, without limitation, facility refurbishment, repair and replacement, infrastructure projects associated with park resource protection, and direct maintenance of the leased property.”

SUMMARY OF NPS LEASE PROCESS



PROCESS

The findings included in the process section represent the bulk of CPM's data collection and analysis, and are categorized sequentially by steps involved in executing a lease. The process chart on the preceding page, which generalizes the main steps, illustrates the complexity of leasing.

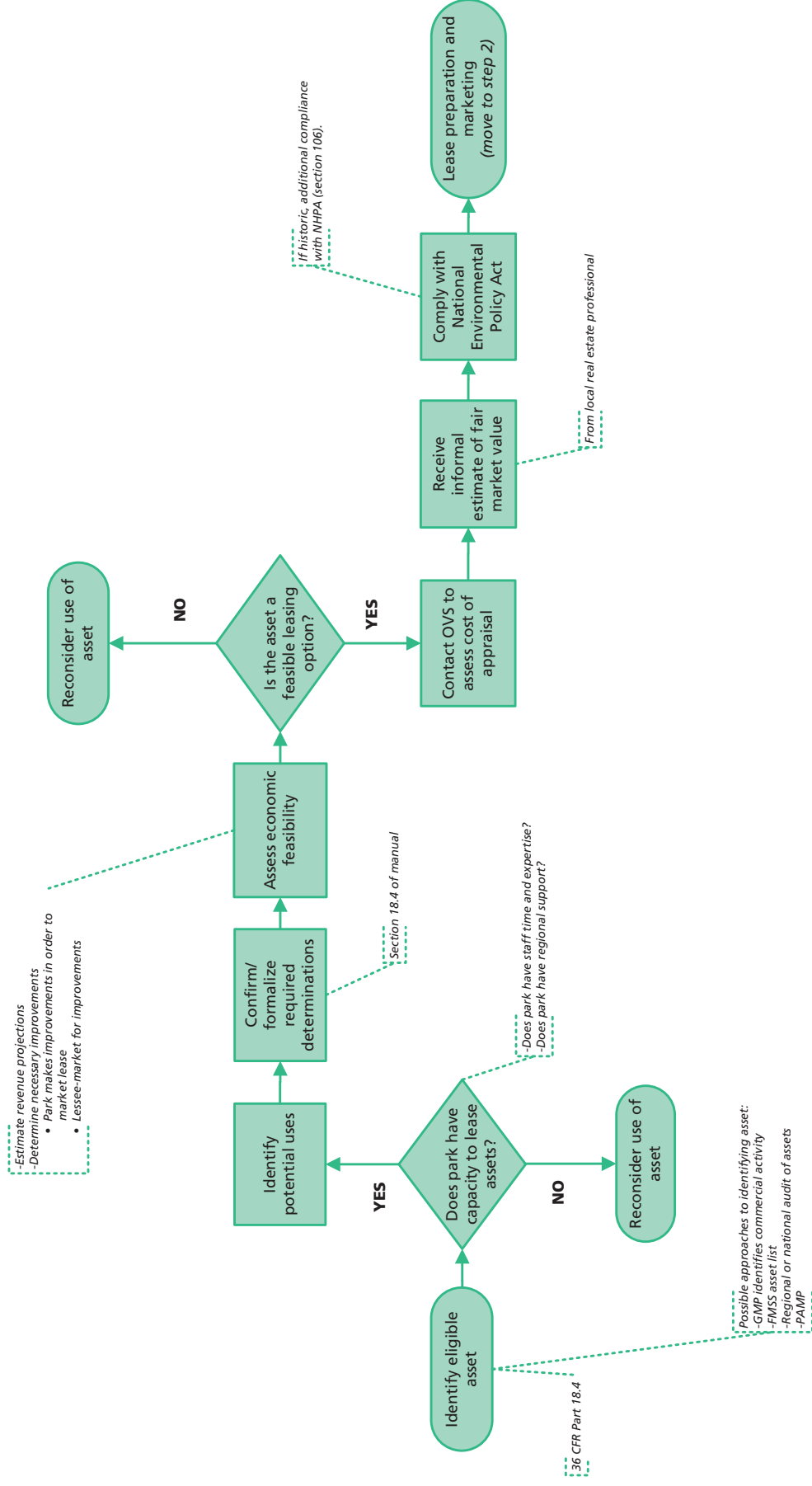
Property Identification and Planning for a Lease

After a park asset has been determined to be leasable (see Appendix C: General Steps in Asset Identification), the first steps in the leasing process include planning for lease execution, conducting the necessary analyses, and compliance work. Each component of this step is critical to a successful lease, building upon the rest of the process. The graphic on the following page illustrates the primary steps involved in planning for a lease. As leases vary greatly, this chart generalizes the typical process, steps, and considerations. The findings related to this phase demonstrate that the preliminary work associated with determination and planning for a lease is unclear and difficult for parks to manage.

- First, **most parks do not feel confident in their ability to determine the feasibility of leasing a property**, or whether a property should be a lease, concession, special use permit, or cooperative agreement. Although some parks have used existing tools or developed new ones to aid them in making decisions about the appropriate agreement that should be utilized for various property agreements (i.e. a document submitted by a park interviewee contained a flow chart developed by the park to help guide decisions about leasing versus concessions contracts), many interviewees noted that making these determinations is difficult and not guided by consistent programmatic use of available tools. Interviewees suggested that lack of clarity on this step may be the primary hurdle for those parks that have the potential to lease but do not.
- Next, some leasable assets within the Park Service are dilapidated and in need of improvements. In fact, this is one of the reasons for the expansion of leasing authorities in 1998. However, it is **very difficult for parks to successfully market facilities in such poor condition to potential lessees**. Interviewees pointed out that lessees that would otherwise be interested in leasing a property are turned off by the realization and financial burden of the restoration and maintenance needs required to bring a particular structure up to an operational and stable level. Several parks noted that acquiring line item construction funding to rehabilitate buildings was necessary before they were able to successfully market a property and secure lessees. Others felt that the reason they were unable to secure leases had to do with the poor condition of buildings.
- Park staff also reported that the **analysis and compliance work is both complicated and unclear**, seemingly involving park, region, appraiser, solicitor, SHPO, NEPA, and other clearances before beginning and then all over again once a proposal is received later in the process.

STEP 1: PLANNING FOR A LEASE

Participants



Participant Key



Promising Practices in Planning for a Lease

- *Use existing planning tools to determine the potential for a leasable asset.* For example, Valley Forge was intentional about using a recent General Management Planning process to identify the feasibility of leasing several assets unused by the park. (Valley Forge NHP)
- *Be sure that the park contacts the regional appraiser before beginning the lease execution process to assess viability and discuss issues that need to be considered in appraisal* (Appraisal Services Directorate, Northeast Region)
- *Differentiate between concessions and leasing in both policy and implementation.* Also, define the relationship between leasing and other authorities (e.g. cooperative agreements, special use permits, interagency agreements, etc.) Demonstrate how the variety of available authorities can be utilized by parks for different scenarios. (Golden Gate NRA)

- Finally, interviewees noted **that the guidance available for parks does not provide enough nuance for the parks to prepare for the implications of executing and administering different types of leases (I.e. residential, commercial, etc).** The lack of support for residential leases was identified as a specific area of weakness by interviewees, who suggested that this gap may indicate a need for programmatic recognition of different leasing purposes.

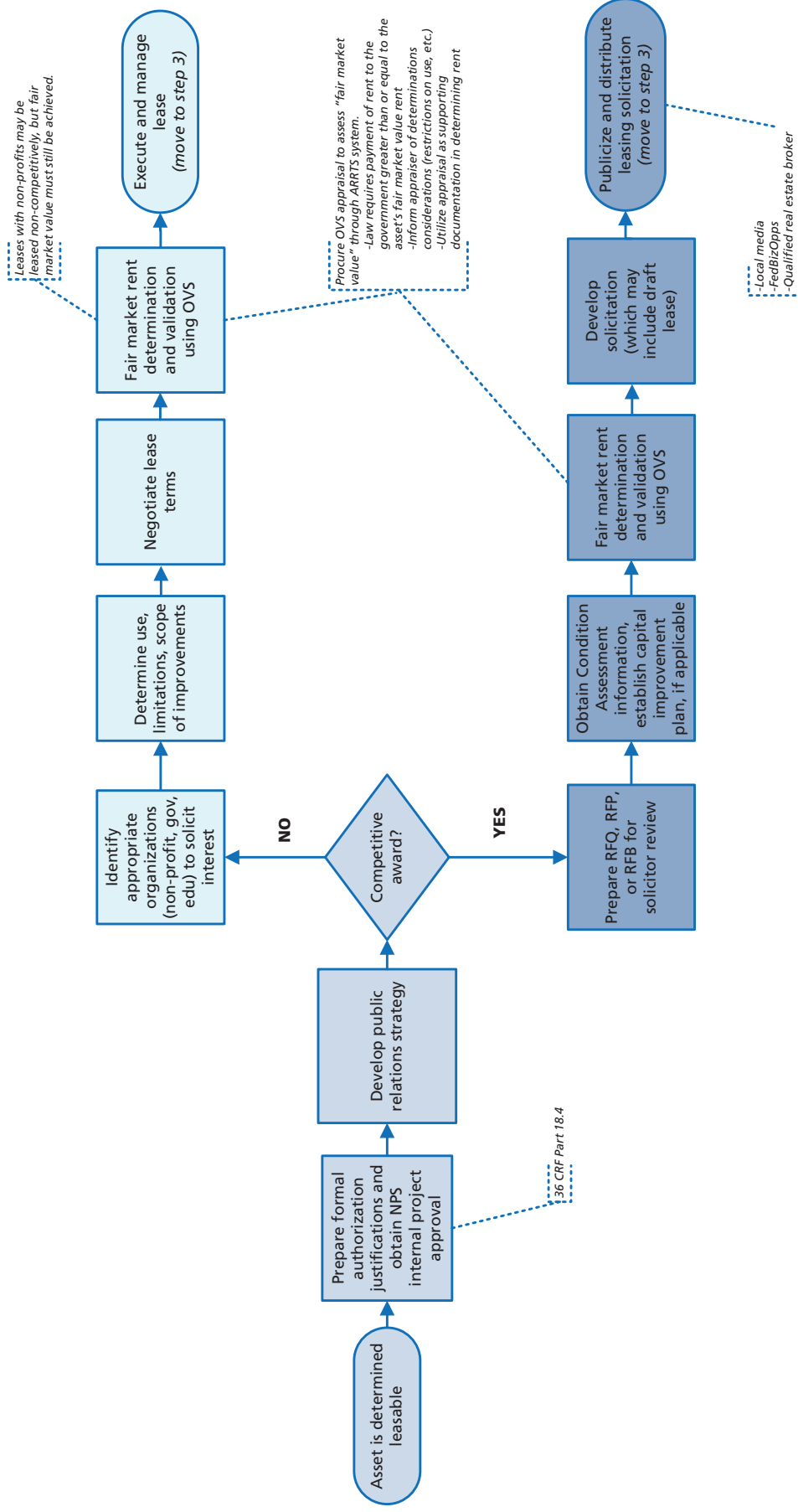
Lease Preparation and Marketing

The following findings and recommendations relate to the tasks involved in getting the leasable property appraised and then marketing properties to potential lessees through a Request for Proposal (RFP), Request for Bid (RFB), Request for Qualifications (RFQ), or noncompetitive bid process. The graphic on the following page details the primary steps involved in lease preparation and marketing. As leases vary greatly, this chart generalizes the typical process, steps, and considerations. The lease preparation and marketing phase, along with the negotiation, are the phases in the process that require the most real estate experience and knowledge on the part of the Park Service. This stage also includes the appraisal, which was the single challenge most often mentioned by interviewees during CPM's data collection.

- **Parks may have difficulty finding appropriate lessees or the best lessee for any given property because they lack expertise in marketing potential leases.** Some interviewees cited the inability to hire mortgage brokers or other real estate experts to assist them in appropriately marketing RFPs in an effort to attract the right proposals. Others mentioned active RFPs that never received any proposals, and one interviewee speculated that the lack of interest was due to the park's inability to target specific audiences.
- Interviews also revealed that during the RFP process, **several parks faced challenges in dealing with public input from stakeholders opposed to leasing for myriad reasons.** Interviewees noted that a consistent public relations/informational strategy could help parks navigate these challenges when presented with questions about commercialization and privatization.

STEP 2: LEASE PREPARATION AND MARKETING

Participants



Participant Key



Park Unit

Regional Office

Washington Area Support Office (WASO)

Promising Practices in Lease Preparation and Marketing

- *Use the tax credit earned for rehabilitating historic properties as an incentive* when promoting and marketing a historic leasable property. (Hot Springs NHP)
- *Be proactive about communicating the lease to community members.* After becoming aware of some community members who were opposed to a park facility being leased, the park used required public forums to proactively message about the facility, and developed briefing papers to share with many community stakeholders. (Valley Forge NHP)
- *Develop a good working relationship with ASD regional appraiser.* It is important to communicate often before and during process. Together, develop tools and templates to make the process more efficient. (NPS North-east Region)

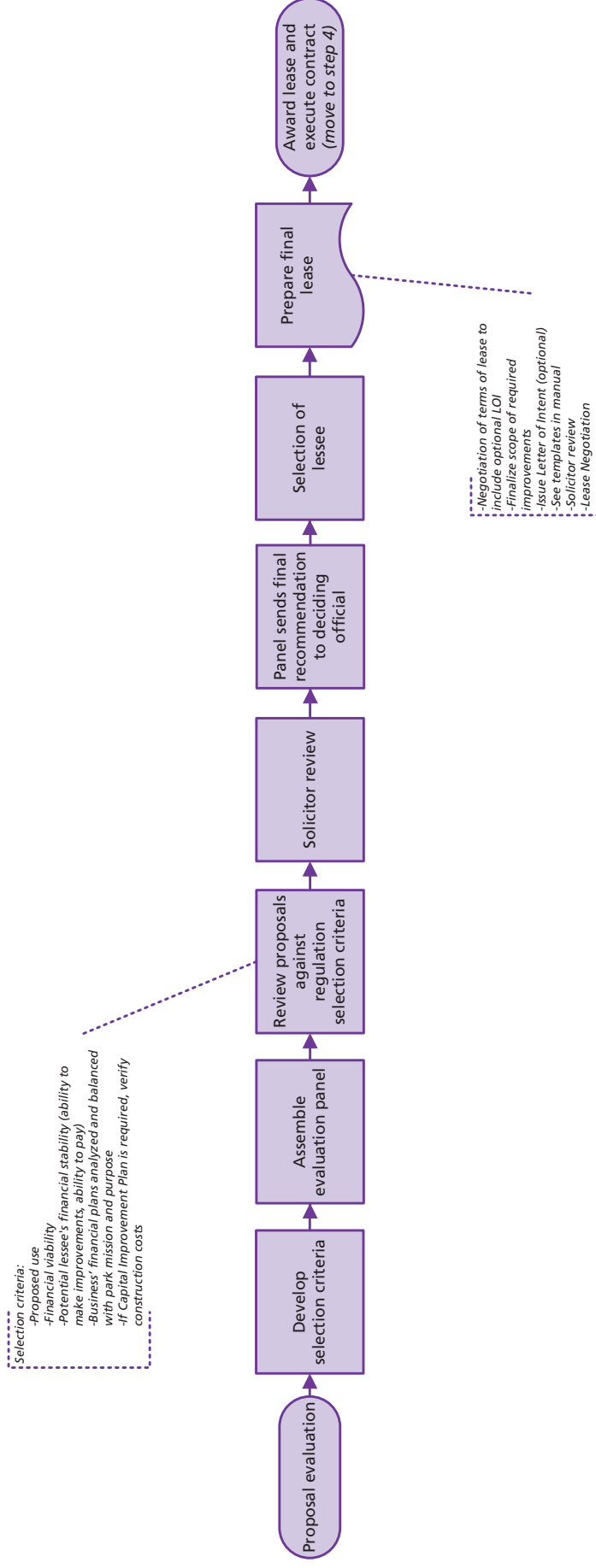
- Almost every single interviewee suggested **the Secretarial Order to use DOI appraisers from the Office of Valuation Services (OVS) has been challenging.** This is a policy issue that impacts process, and is discussed in greater detail on pages 14-15 of this report.
- Additionally, many parks reported a **lack of clarity regarding the stage of the lease execution process when an appraisal should be completed.** Interviewees suggested that in order to assess feasibility, an appraisal is necessary at the very beginning of the process. However, by the time the park finalizes the RFP process and selects a lessee, the initial appraisal is often no longer valid as it may have expired or use was too narrowly defined. This was noted as an obstacle that costs the park both time and money, and affects the park's ability to market the property. There is confusion about the needs and requirements regarding an assessment appraisal and an actual appraisal.
- One interviewee mentioned that the process for initiating an appraisal is confusing and redundant as there is **no integration between the ARRTS (Appraisal Request & Review Tracking System) and IDEAS requisition system.** While parks have the ability to enter comprehensive information (I.e. target property, intended purpose of the appraisal, contact information, maps, photos, etc.) about an appraisal in ARRTS, that same information must be reentered in the IDEAS requisition system for processing as the two systems are not integrated. This redundancy and lack of integration can cause frustration for users and lengthen an already unwieldy process.

Evaluation, Selection, and Execution

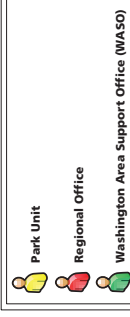
The process of evaluating proposals, selecting a lessee, and negotiating lease agreements can be lengthy. This step requires a certain level of expertise that is often not available at the park level. Recommendations related to this process step are aimed at better equipping staff with tools to better prepare for financial implications and negotiation components among others. The graphic on the following page details the primary steps involved in evaluation, selection, and execution of a lease. As leases vary greatly, this chart

STEP 3: EVALUATION, SELECTION, AND EXECUTION

Participants



Participant Key



generalizes the typical process, steps, and considerations. This stage was often characterized by parks as the stage for which they are most unprepared, though this perception was felt less strongly in regions with stronger regional office support for leasing activities.

- **The role of the park, region, and/or WASO in assessing proposals, selecting a lessee, and executing a lease varies greatly depending on the size and type of lease.** A complex lease involves staff at all levels, while the process for smaller leases is oftentimes managed at the park level with assistance from the regional office when needed. The variance in roles and responsibilities may be positive if it streamlines the process; however, it may also contribute to the park staff's sense that the process is unpredictable.
- The evaluation and lease execution phase, which at times includes an appraisal, was noted by interviewees as a competitive disadvantage as compared to the private sector. **This phase in the process, especially the negotiation, is perceived as unduly lengthy.** Interviewees noted that the drawn-out and unpredictable timeline impacts the parks ability to be competitive and engage potential lessees.
- Interviewees noted that some of the delay may be due to a mismatch between the scale of leasable facilities and the process required for all leases. Of note, **the analysis and evaluation process was cited as too restrictive and prescriptive for small, short-term, and residential leases.** While the reference manual and other available tools were cited as valuable guidelines for complex, sizable leases, interviewees remonstrated that imposing an overly prescriptive process isn't applicable to the scope of all leasing activities and the flexibility built into the program is what makes it so attractive.
- However, while a prescriptive process is not desirable, interviewees requested additional specificity within the guidance available. When preparing a lease, several interviewees referenced the three sample lease templates (Improvements; Long Term, No Improvements; and Short Term, No Improvements) provided in the leasing manual. While these lease templates were cited as helpful, some noted that **lease templates for different types of leasing activities and different lease sizes do not exist**, and that in addition to the templates in the manual it would be extremely useful to have templates that address different uses as well a simpler lease contracts for smaller leases.
- One requirement of this phase is determining whether or not a leasable asset is financially feasible. **However, most parks and/or regional staff do not have the financial tools to accurately and efficiently make decisions about whether or not a property is feasible for a potential lessee.** In the case of commercial leases, economic viability for a potential lessee is perhaps the most important aspect of a successful lease. One park noted that they have created a financial viability tool that has helped them easily make determinations, but this tool has not been shared across the Service, and most parks feel unprepared for this step. Furthermore, park staff in particular noted that due to a lack of understanding, they are uncomfortable discussing

Promising Practices in Evaluation, Selection, and Execution

- *Do not develop a “special purpose process” for large transactions.* Allow a customized process, within the framework of the regulations, to be defined to fit the need of the specific lease transaction. (Golden Gate NRA)
- *Develop a financial analysis tool to assess lease viability.* (NPS Midwest Region)
- *Retain a SME, and if possible, legal counsel to assist with negotiations* that have significant financial and legal complexities. (Golden Gate NRA)

financial considerations such as triple net leases and amortization schedules, as well as financing structures (I.e. commercial loans, mortgages, incorporations) with potential lessees. Possessing this knowledge is important in order to properly evaluate proposals and conduct negotiations.

- In addition to difficulty with financial analysis, **park staff also mentioned that negotiating was a difficult step.** Interviewees from several different parks reported that the negotiation step took longer than any other piece of the process; in two cases, negotiation took upwards of two years due to promises made by park staff that were rescinded at higher levels of NPS or DOI. Park staff feel they are not prepared for the negotiation, but remain responsible for maintaining the relationship (and at times, saving face) with the potential lessee throughout the difficult process.
- Finally, when a lease required capital improvements, park staff was surprised by the logistics involved in coordinating **federal, state, and local stakeholders regarding safety and historic preservation requirements.** While the leasing manual outlines the federal implications and requirements, parks mentioned that they were not prepared or equipped for the level of communication and negotiation that is sometimes necessary with local and state entities.

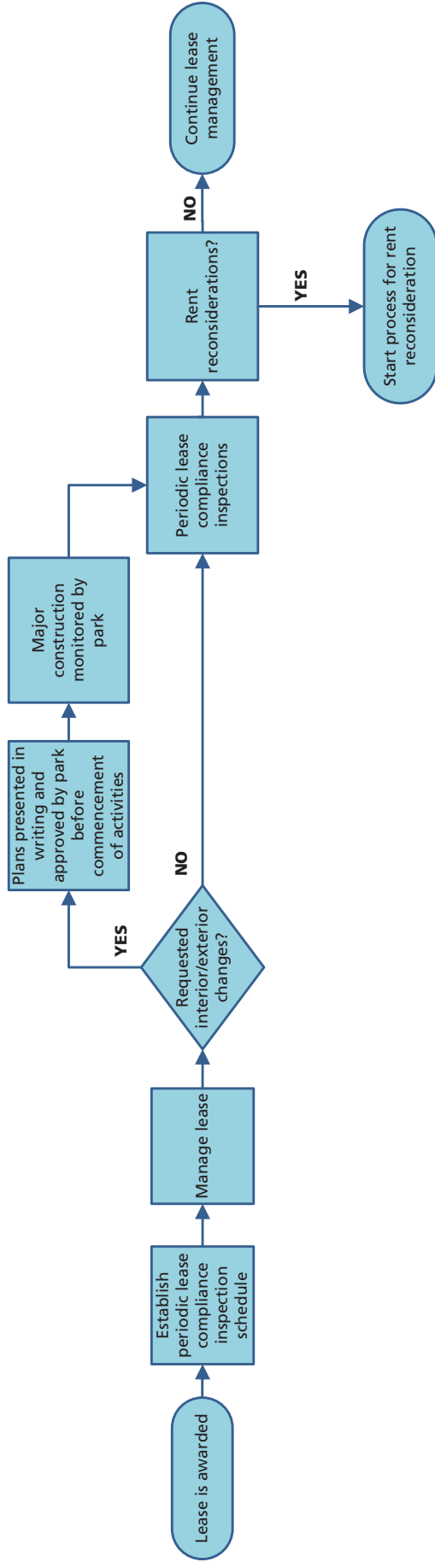
Lease Management

The final step in the process is the ongoing management of the lease once the lessee has taken occupancy. This includes the monitoring during the rehabilitation phase to assure that the lessee is in compliance with both his/her proposal and NPS regulations (as well as any historic preservation concerns), as well as the continuous, regular monitoring and lessee management after improvements have been made. The graphic on the following page details the primary steps involved in the last stage of the process. As leases vary greatly, this chart generalizes the typical process, steps, and considerations. Supervision of rehabilitation, as well as ongoing administration and management, is an area that is least prescribed and supported by the NPS Leasing Program.

- In general, interviewees agreed that lease administration is an area for which **there is a lack of prescribed process, guidance, or support.** Parks reported learning through experience, but repeated that guidelines for monitoring a lease would be a very useful tool. In lieu of any existing lease administration guidelines, some parks administer leases by adapting the concessions protocol, but were uncertain about their applicability. In addition, one interviewee noted that

STEP 4: LEASE MANAGEMENT

Participants



Participant Key



Promising Practices in Lease Management

- *Assign a relationship manager (park staff person) for each lease.* (Golden Gate NRA)
- *Develop annual report and review process* for larger leases. (Golden Gate NRA)
- *Adapt existing processes and tools for lease administration.* When a new lease called for a preservation maintenance plan to be developed, Hot Springs NHP used the concessions plan as a model and added Section 106 compliance information. They also conduct an annual safety inspection, and use that time to informally assess the condition of the property as well. Valley Forge uses FMSS to plan for long-term preservation and maintenance, as well as annual condition assessments.

leases are intended to be “hands off,” and easy for the park to manage once the lease is executed. In that case, using the more prescriptive concessions guidelines seems counter intuitive.

- The responsibility of being a landlord is not something that many parks are prepared for. Specifically, **parks reported being ill-equipped to enforce contract obligations due to lack of capacity and expertise.** A few parks who have dealt with breaches of contract remarked that without a process or system in place, evicting a negligent lessee is particularly difficult. Furthermore, one interviewee noted that enforcement is difficult because lessees may feel they deserve special treatment since they are taxpayers and the property they lease is government property. Additionally, one park recalled being unprepared for a media backlash after evicting a negligent lessee.
- Every interviewee was asked whether or not they had evaluated their related Leasing Program or instituted a system for continuous improvement. While one park is in the process of evaluating its program, all other interviewees noted that **there are no benchmarks or formal feedback mechanisms in place to assess leasing activities.** Likewise, communicating success is also not a standard practice of the program.
- Finally, the lease execution process comes full circle when a lease expires and the park must execute a new lease. Park interviewees, especially those with residential leasing, noted that **the process of re-competing a residential lease (often done on an annual basis) is overly cumbersome and a serious disadvantage when compared to the private sector.** However, it interviewees admitted that re-marketing a lease is important to maintain competitive advantage, but that a more manageable, expedient system would be preferred.

FINDINGS CONCLUSION

This chapter presented the findings derived from an extensive data gathering effort that included document review, thirty-three discovery interviews, and the engagement of a private sector leasing expert. For the purposes of this project, the findings are focused on areas of improvement, though benefits of the leasing authority and successful leasing projects were mentioned by interviewees. The next chapter builds on these findings by identifying recommendations for improving the function of the Leasing Program and overall use of the leasing authority.

LEASING PROGRAM ASSESSMENT: RECOMMENDATIONS

The findings in the prior chapter demonstrate that the evolution of the Leasing Program has benefitted from the autonomy granted to parks, and is now at a stage in its development where program improvements will help equip parks to fully understand and use the authority. Close analysis of the findings reveals that there are four primary barriers to the maximal use of the leasing authority by the National Park Service:

- Limited park-level awareness and understanding of the authority and program;
- A lack of connection between all NPS staff with leasing expertise, and associated absence of systematic knowledge building and sharing;
- Financial challenges to successful lease execution – specifically, the appraisal process, and the inability to successfully market or find funding for stabilizing deteriorated facilities; and
- The absence of a strategic, coordinated approach to support existing and potential leasing opportunities.

The recommendations below were derived following an analysis of the findings (program structure, policy, and process), and informed by additional feedback from Park Service experts and private sector leasing subject matter experts. When appropriate, tactical suggestions are included. This chapter concludes with a section on implementation that is accompanied by a prioritization matrix developed collaboratively by the CPM/NPS project team.

It is important to note that some of the proposed recommendations have financial implications. The barriers to improvement listed above are amplified by the lack of base funding for administration of the leasing program. CPM worked closely with the NPS to develop recommendations that can improve the program with limited financial resources. However, several of the recommended improvements are not possible without a funding increase; these are denoted as such. The overall maturation of the Leasing Program will continue to be incremental at best unless additional funds are committed, but the NPS may wish to gain more clarity on the maximum growth potential of this program before allocating a base funding increase. The recommendation on page 38 that details the use of planning tools, the Park Asset Management Plan, and a voluntary inventory to determine leasing potential would also provide program managers with data on this program's growth potential.

... the evolution of the Leasing Program has benefitted from the autonomy granted to parks, and is now at a stage in its development where program improvements will help equip parks to fully understand and use the authority.

BUILD A COMMUNITY OF EXPERTS

While the NPS leasing program is relatively new, internal and external experts are readily available. Many of them were interviewed during CPM's data collection, and others were identified. A focal point for the improvement of the leasing program is to cultivate these individuals into a "community of practice" that can lead the way in building and sharing information. Communities of practice are defined in organizational development literature as "groups whose members regularly engage in sharing and learning, based on common interests... [to] improve organizational performance."⁸ CPM recommends that NPS identify and convene individuals with leasing expertise in order to capture and share information through the following actions.

The first step in building a leasing community of experts is to **identify the leasing community "members" and establish opportunities for them to connect.**

- Once a list of community members (including park staff, regional and WASO staff, as well as representatives from other involved leasing collaborators including OVS, Solicitors Office staff, planners and facility maintenance) is compiled, the CSP point of contact should make it available to all interested parties through the Commercial Services Program's (CSP) SharePoint site and other means, i.e. hardcopy directory.
- The CSP currently hosts a monthly concessions "chat" that covers topics of interest to park and regional staff alike. A similar chat focused on leasing would not only provide administrators an opportunity to disseminate information about some of the issues covered in this report, but would also further build and connect members of the leasing community. Based on the findings, suggested chat topics include: (a) What's in the leasing manual?; (b) Are you a good landlord?; (c) Why does WASO review all leases with terms of 10+ years?; (d) Complex leases—what do you need to know? (i.e. the purpose of a letter of intent, how to identify a subject matter expert, etc); and (e) How to use short-term leases in lieu of special use permits.

In addition to building the community, the dissemination of knowledge among its members is a critical need and component of success. The CSP should **evaluate current knowledge sharing mechanisms and determine how best to collect, review, organize, and share leasing information.**

- Given that Microsoft SharePoint is an already established knowledge-sharing tool in use by the Commercial Services Program (CSP), SharePoint should be the primary repository for leasing information to be shared with an internal (NPS) audience. Examples of information include contact lists, statutes, manual (searchable), leases and RFPs, and training chat transcripts. Depending upon the user settings, SharePoint also provides the potential for parks to share tools with each other that they develop for lease execution and/or administration. Eventually, the addition of discussion forums and/or a blog would provide NPS staff engaged in

⁸ Lesser, EL, and Storck, J. "Communities of practice and organizational performance," IBM Systems Journal. Page 40. 2001.

leasing activities with an opportunity to ask questions and document and share best practices. This tactic carries with it some risk of compromising quality of information, but also holds potential for increasing innovation at all levels.

- The CSP website is already being used to share information with both internal and external audiences on the leasing program. This site should be reviewed to determine whether additional information might be added or if reorganization would prove useful.
- When complete, the leasing database being developed as part of this project will also assist in organizing and sharing information about existing leases.

CSP managers could **accelerate the sharing of knowledge by forming an internal advisory group of leasing experts** to support the program. This group would assist CSP in shaping recommendations for program management, and also be another source of consistent, accessible expertise for parks and regional leasing coordinators.

- The advisory group would be a subset of the leasing community who have significant experience with NPS leasing. The group should be connected via regular communications as well as meetings. The group meetings could, at least in the short-term, be no-cost through virtual conferences or webinars. If in-person meetings are identified as necessary at a later date, funding would need to be allocated.
- Based on discussions with CSP managers and other recommendations made in this report, some suggested initial tasks for this group include: (a) mentor parks with new or relatively new leasing programs; (b) develop chat topics and content; and (c) develop information on leasing process components that are particularly complex or in need of baseline guidance (i.e., preliminary feasibility studies, lease administration).

Two entities who are closely involved in the leasing process but not part of the immediate NPS community are the Office of Valuation Services (OVS, formerly the Appraisal Services Directorate, ASD) and the Solicitor's Office.⁹ Program managers should **focus on increasing information-sharing efforts between NPS and the staff tasked with leasing for OVS and the Solicitor's Office.**

- Each NPS regional leasing coordinator should identify the primary point of contacts for both entities in that region, and then work to establish and maintain a close relationship with the individuals. Some NPS regions and parks have already developed a process for working with OVS appraisers, and begun to create an archive and templates based upon leases completed.

⁹ When this project began, and throughout data collection and analysis, the Office of Valuation Services (OVS) was named the Appraisal Services Directorate (ASD). By May 2010, ASD had changed its name to OVS, and it is currently preparing for an organizational restructure. Due to these changes, CPM conducted a follow up interview with OVS in November 2010 to determine whether they had any impact on this report. Given that OVS has not yet implemented the restructure, we are unable to make conclusions about impact at this time. However, all references to ASD in this report have been changed to OVS for consistency.

- Additionally, cross-regional information sharing should be encouraged between regional solicitors and also between regional OVS appraisers. This could occur through monthly chats or meetings intended to increase leasing-related discussions between those who share this responsibility across regions.

INCREASE PARK-LEVEL AWARENESS AND UNDERSTANDING

Findings indicate many of the challenges associated with leasing are attributed to limited park-level awareness and understanding of the leasing authority and program. Because leasing administration ultimately happens in parks, it is imperative that park staff understand the complexities and benefits of leasing, have realistic expectations about the process and outcomes, know their own role in lease execution and administration, and are aware of available support. CPM recommends that leasing program managers increase park-level awareness and understanding through the following actions.

Define the roles and responsibilities of leasing program staff in a manner that clarifies the program's function for all involved but does not create unnecessary constraints or inflexibility. Roles and responsibilities should be aligned with realities concerning available staff, training outcomes, and resource preservation priorities within parks and regions.

- The Roles and Responsibilities table that follows (and explained in greater detail in Appendix D) provides the NPS with a template for identifying the responsibilities for WASO, the region, park staff, and other participants during each step of the lease execution process. Once roles are identified, this tool should be made available online to assist parks in understanding who to involve and at what stage, potentially through SharePoint. It is likely that in general, WASO and regional staff will be involved in guiding the lease execution process, and park staff will be responsible for the ongoing administration of leased properties.
- The Roles and Responsibilities table can also be used to identify roles or positions that may be augmented if additional base funding for the program is made available. In the event that the program is able to recruit new staff, strong real estate experience should be a priority for future open positions. The NPS Business Planning Initiative and the Presidential Management Fellowship are two potential applicant pools that should be considered.
- Once roles and responsibilities are defined, knowledge, skills, and abilities (KSAs) might be identified and verified for leasing program staff. This would enable program managers to recognize and recruit appropriate employees; to design training and professional development plans that meet business needs; and to identify gaps that exist or arise. KSAs may apply to only one position or they may be adjusted by level of understanding (basic, moderate, or expert) for different positions.

Table 5.1 Roles and Responsibilities Table

Lease Process Step	Park Staff	Superintendent	Region	WASO	Solicitor
<i>Sample Process step</i>	<i>R</i>	<i>R,A</i>	<i>C</i>		
Planning for a Lease					
Identify eligible property					
Determine park's capacity to lease					
Assess feasibility of property					
Contact OVS to assess cost of appraisal					
Receive informal estimate of fair market value					
Comply with NEPA					
Preparation and Marketing					
Prepare formal authorization justifications					
Obtain NPS internal project approval					
Develop public relations/information strategy					
Identify nonprofits to solicit (non-competitive)					
Determine use, limitations, scope of improvements (non-competitive)					
Determine fair market value using OVS (non-competitive)					
Prepare RFQ, RFB, RFP for solicitors review (competitive)					
Obtain conditional assessment evaluation (competitive)					
Fair market rent determination and valuation (competitive)					
Develop and distribute solicitation (competitive)					
Evaluation, Selection, and Execution					
Proposal evaluation					
Solicitor review					
Lease selection					
Draft lease					
Lease Management					
Enforce Contract					
Lease compliance inspections					
Annual rent increases, if applicable					
Requested changes approved by park					
Major construction monitored by park					

A companion activity to the clarification of roles, responsibilities, and KSAs is to **develop trainings to meet the needs of employees engaged in leasing**. Park staff overwhelmingly noted a deficiency in training opportunities and a need for specialized knowledge. It is recommended that a training curriculum be developed for regional leasing staff as well as specific training for park leasing staff who only assign a small fraction of their time to leasing.

- A “Leasing 101” training that provides an overview of the roles and responsibilities, covers the process of lease execution and administration, and explains the rules and regulations that shape the authority would be useful for experienced and new staff alike.
- Leasing curriculum/modules may be developed that can be incorporated into existing, related trainings. Program staff should identify existing trainings already incorporated into various curriculums and audit, expand, and/or incorporate appropriate leasing training modules.

The level to which CSP and regional program managers are able to increase park staff awareness and understanding will be impacted greatly by parks’ ability and inclination to readily access information. Therefore, it is important that managers **familiarize parks with information-sharing mechanisms like SharePoint** through monthly chats, trainings, and all other leasing communications. SharePoint can be a powerful tool for program communications, and is referred to specifically in many of this report’s recommendations.

- Park staff reported that the leasing reference manual was difficult to navigate, so the ability to use SharePoint to search the online PDF manual should be communicated to the field.

Design an orientation to leasing for parks with new or less mature leasing activities. This orientation would be conducted by regional program coordinators, who would collaborate with parks to examine capacity, plan for needed support, and provide detailed guidance on the most challenging steps in the lease execution process. This orientation would be in addition to the “Leasing 101” training curriculum discussed above.

- Use the capacity assessment in the leasing manual to assess the leasing situation and resource it appropriately. CPM recommends that the region work with park staff to perform leasing capacity assessments prior to or early on in the process of engaging in leasing activities. Leasing is a complex, time consuming, and collaborative process, and the deployment of a capacity assessment at the beginning would help parks not only better understand the implications of time, money and staff requirements, but also identify where additional capacity will be needed throughout the process, including the ongoing management after a lease is executed. If a leasing capacity assessment demonstrates the need, parks might investigate the utility of using leasing revenue to fund a term position in the park or hire an outside SME to manage all or some of the leasing activities within that park.
- Based on the particular circumstance of the potential lease, WASO program administrators may use the RACI chart referenced above to determine whether appropriate expertise is available for parks at their regional office. In the event that it is not, park staff may be connected to appropriate expertise in another location.

- During the orientation, park staff should be paired with a leasing “mentor,” someone in the Service with previous leasing experience who can provide support and guidance. The advisory panel might play a role in acting as or recommending mentors.
- If external expertise is needed, park and regional staff would benefit from the compilation of a list of external private sector leasing experts that is updated and vetted by program managers. The ability for parks to connect with external experts might be facilitated by federal business opportunities or regional-level contracts with external experts that can be tapped, with appropriate approval, by any park in the region.
- The orientation should also familiarize park staff with all available leasing resources, the expertise within the advisory panel, and any other information-sharing tools developed for the program (I.e. SharePoint).
- The orientation is also an opportune time to discuss the most challenging parts of the process with park staff. This discussion should include information on outreach sources (RTCA, park planner), determine how to best position the park for marketing and economic analysis (including whether a broker or other SME will be needed), preparation for negotiation, and details on lease administration responsibilities (including an examination of applicable state law). Additionally, some parks may benefit from a better understanding of the various means through which to measure market interest in leasable facilities (i.e., RFP, RFI, RFQ, etc.).

Beyond the orientation for new parks, program managers should be sure that the specific **process challenges highlighted by the field during CPM’s discovery interviews are addressed through trainings, support, guidance, and/or capacity-building.**¹⁰ The recommendations below are organized by the process phases explained in the previous chapter.

Property Identification and Planning

- The leasing manual, which currently covers only the steps involved in the process once an asset has been identified as leasable, should be expanded to provide parks with guidance on preliminary steps.
- Park staff reported confusion when making decisions on which commercial instrument or agreement should be applied in different scenarios (i.e short-term lease, special use permit, cooperative agreement, concessions contract). This information exists in a memo, which should be readily available to parks (I.e. Sharepoint). Parks also noted an interest in better understanding the potential to use short-term leases in lieu of special use permits when appropriate, which is a topic well suited for a monthly chat and leasing training, as well as the development of a short-term lease template for the manual.

¹⁰ As additional guidance is developed for RM, determine whether it is aligned with DO, and if DO needs to be amended as well.

- The multi-layered compliance process is complex, especially for parks new to leasing. However, the compliance process is aligned with overall NPS park-planning processes, so program managers should link leasing guidance to Directors Orders that review planning. A detailed workflow chart for compliance would also assist with communicating needs and setting expectations for this element.
- Relationships with community stakeholders in the parks gateway communities are occasionally negatively impacted by leasing activity. In addition to the public involvement required in some of the compliance work, when parks are beginning lease development on higher-profile (or unique-use) assets, they should consider whether to begin proactive communication with community members about the parks leasing plans. Program managers should connect parks to NPS partnership thought leaders like the Rivers, Trails, and Conservation Assistance staff and other community planning resources to support the process of stakeholder identification and engagement planning.

Lease Preparation and Marketing

- As mentioned later in the recommendations, the appraisal process and specifically the fair market value requirement was mentioned as a point of concern by many interviewees. Education on the valuation process, and dialogue with OVS on the different means to arrive at the valuation would be beneficial in increasing park staff understanding on these issues.
- CSP managers can set appropriate field expectations for the approval process by clarifying and committing to a 60-day turnaround timeline for all complete lease packages. A more detailed approval explanation might include a risk profile that outlines the reasons for required approvals for different levels of risk.
- NPS should inform prospective tenants and request tenants to inform their lenders of NPS leasing regulations (including a leasehold mortgage explanation) and leasing policies early on in the process. This will allow tenants and investors time to weigh the costs, benefits, and requirements of engaging in an NPS leasing process, and hopefully minimize or eliminate miscommunications and surprises mid-way through a negotiation.
- When necessary, connecting park staff to local brokers will enable park staff to market the property in line with local expectations, identify potential lessees with greater ease, and abbreviate the length of time between the release of the RFP and the commencement of negotiation.

Evaluation, Selection, and Execution

- In addition to staff support, existing guidance should be amended to provide parks more clarity on negotiation expectations and process. The templates already included in the leasing manual might be edited to include notations that indicate which clauses are non-negotiable.

Additionally, park staff should be aware of the expected length of negotiation, and understand that the NPS negotiation length does not differ significantly from that of the private sector.

- When dealing with negotiations that have significant financial complexities, parks should retain a subject matter expert to assist with negotiations and/or analysis of financial viability. In this case, the NPS should determine whether the lease might include cost recovery for outside consultant (I.e. economic, marketing, broker) costs incurred during negotiations. Another option is for the CSP to leverage the experts available through the Indefinite Delivery – Indefinite Quantity (IDIQ) contracts.

Lease Management

- Field staff indicated that there is no guidance for what to do after a lease is executed, and that they would benefit from instruction on how to maintain a leased property and manage the lessee. The leasing manual should be expanded to provide comprehensive guidance on lease administration. A standard provision on lease facility maintenance requirements is already included in the manual; this should be reviewed and enhanced.
- All of the centralized guidance need not be newly created—several parks have already adapted existing processes and tools for lease administration. One park used the concessions plan as a model to develop a lease preservation maintenance plan, and another uses FMSS to plan for long-term preservation and maintenance as well as annual condition assessments. The A-126 concession annual checklist might also be adapted for monitoring park leasing programs. SharePoint and/or monthly chats are ideal mechanisms for sharing these tools.
- Lessees would also benefit from the development of information that outlines expectations and contract obligations. Park staff should review the details with lessees to apprise them of obligations, rights, inspection schedules, and other responsibilities from the moment that they take possession of the facility.

Finally, CSP should be deliberate in **communicating the importance of the leasing authority to accomplishing the mission of protecting park resources.**

- CSP managers should develop an internal (NPS) communication strategy designed to enforce the identity of leasing program, distinguish leasing from concessions, address myths while communicating realities of program complexity, and raise park staff awareness of the benefits of leasing (i.e., opportunity to partner with community, preservation of assets, etc).
- This message should be disseminated widely through articles about specific park leasing programs on InsideNPS, edits to the CSP website, announcements about trainings, and monthly chats. The identity of the program can be enforced by adding “Leasing” to the title of the CSP SharePoint Site, and featuring a Leasing “tab” as prominently as Concessions.

MITIGATE FINANCIAL OBSTACLES TO SUCCESSFUL LEASE EXECUTION

In addition to connecting the community of leasing experts, and building park staff understanding, there are several steps that leasing program managers can take to tackle two of the most-often mentioned obstacles to successfully executing leases, appraisals and facility condition.

During the discovery interviews, the asset appraisal, and specifically the process as managed through the DOI Office of Valuation Services (OVS, formerly the Appraisal Services Directorate, ASD) was mentioned as a substantial obstacle to cost-effective, timely lease execution.¹¹ Program managers should help parks understand time and financial implications of the appraisal process. While parks should have clear expectations about appraisal cost and process, NPS should work to **minimize the impact that the current appraisal process has on the lease execution process** by using one or more of the following tactics.

- The Park Service should assess whether the requirement to work with OVS is truly a financial obstacle for the majority of leases. The litmus test should not be anecdotal, however, but should instead be focused on the goal of determining whether there is a systematic imbalance wherein appraisal costs regularly exceed potential lease return. By developing case studies that examine the costs of the appraisal and compare them to the economic viability of the lease, the NPS can determine whether to adjust or work to eliminate the current appraisal mandate. If adjusted, NPS might request approval for a threshold that exempts low-return (in both revenue dollars and capital improvements) leases from the OVS appraisal and instead allows parks to work with local appraisers for this purpose.
- Another opportunity to minimize the cost associated with appraisal is to build it into existing processes. When new land is acquired by NPS, the park and region develop a land protection plan that includes consideration of the best use for unneeded facilities. If these facilities include leasable assets, the NPS should proactively include an appraisal in the land acquisition, which would stand for a certain time horizon. If the “best and highest use” has already been appraised and facility can be leased quickly once the land is acquired, this approach may eliminate another lengthy appraisal process.
- Program managers should augment the manual with guidance on lessee-financed appraisals. During interviews, one interviewee suggested that a way to minimize the length of time involved in a non-competitive process (i.e. sole potential lessee is nonprofit partner) is to have the lessee finance the appraisal. If this practice is employed, it must be made clear that the appraisal is U.S. government property.
- Finally, the NPS should work to improve the working relationship with OVS and share knowledge and best practices widely so that appraisers have a better understanding of the unique qualities of NPS facilities. A specific focus of this information sharing should be fair market

¹¹ See footnote on page 14 for more information on recent changes within the Office of Valuation Services.

value, as it was mentioned as an area of concern by many interviewees. A cross-training approach wherein NPS shares knowledge about its facilities with appraisers, and appraisers explain their valuation approach to the field, would be the most useful tactic for this strategy.

The second-biggest financial obstacle to successfully using the Part 18 leasing authority is the challenge of successfully marketing deteriorated facilities to potential lessees. The Park Service should **direct strategic, special attention in the early stages to supporting parks with facilities in need of rehabilitation.**

- Regional offices and WASO should identify and disseminate information on all available opportunities/grants for stabilizing or rehabilitating assets for leasing. The NPS Cultural Resources program has information on many of these fund sources.
- The Park Service has access to several funding sources that are limited or unavailable to the private sector during traditional real estate transactions. The leasing program should actively leverage these funding sources (I.e. Save America's Treasures, American Recovery and Reinvestment Act) in order to increase financial attractiveness of deteriorated buildings to potential investors.
- Additionally, several parks have used the tax credit earned for rehabilitating historic properties as an incentive when promoting and marketing a historic leasable property. However, leasing program coordinators should more prominently share existing guidance on how tax credits work and their limitations (I.e. only available to revenue-generating leases with terms longer than thirty-nine and a half years), as they are also a source of confusion.
- Finally, as discussed in the strategic recommendations below, the NPS should use available data and/or fund condition assessments to determine the level of stabilization or rehabilitation needed for leasable facilities. High-opportunity structures should be targeted and compared to level of investment needed.

STRATEGICALLY TARGET LEASING OPPORTUNITIES AND PROGRAM DEVELOPMENT

Finally, there is an opportunity to strengthen strategic aspects of the leasing program to target investment in facilities, improve support services based upon feedback, and coordinate with other NPS functional areas in order to gather the most reliable and comprehensive data for decision making.

The leasing program as a whole, and regions and parks individually, can **be more proactive and systematic about identifying leasing opportunities.** An organized approach to the program at all levels will help program managers ensure that parks have the support they need, and will help parks plan appropriately for lease execution and management.

- Parks, with the help of regions, would benefit from systematic use of available planning tools to help identify and determine the feasibility of leasable assets (I.e. GMP, commercial services plans, commercial use strategy, FMSS asset list, land protection plan, IDIQ contract, facility condition index). While each of these planning/management tools are different, they could

be employed separately or together to not only determine whether a property is leasable, but also to determine “best and highest use” and at times include a full appraisal (if potential use is sufficiently narrow).

- In order to employ these tools more systematically, leasing administrators should form relationships with and educate NPS planners about the leasing authority and its benefits. Park planners might be a target audience for representation within the leasing community being recommended.
- Another tool that might be employed at the park level is the Park Asset Management Plan (PAMP). Specifically, the analysis that helps parks prioritize assets based on condition (FCI) and value to park mission (API) could be useful. Leasing program administrators should explore the potential to collaborate closely with the Park Facility Management Division to use the PAMP process to target facilities that are lease eligible. Assets with very low APIs but high FCIs might be ideal for leasing.
- In addition to employing existing tools more regularly and systematically, an NPS-wide voluntary inventory of properties could be conducted to categorize assets by need: significant rehabilitation required, stabilization required, leasable as-is. The NPS could then consider pursuing those opportunities with high revenue potential first to build the program’s reputation and base. This strategy may require funding for condition assessments if they have not yet been completed.
- Another method of identifying potentially leasable properties is to collect data on facilities in pending park expansions and retained uses already in parks. A review of these assets will enable leasing program managers to prepare for upcoming leases when the land or facility is eventually acquired.
- Recommendations that position the Leasing Program to respond more proactively and strategically based upon data review might be accepted as a project for the NPS Business Planning Initiative. CSP should meet with the Business Management Group in the Comptroller’s Office to determine whether a leasing project might be developed as early as Summer 2011.

Finally, **a continuous improvement process for the program and individual parks should be designed and developed.** Regular feedback loops will help ensure that the program structure is built and adjusted in a way that supports the use of the leasing authority for the greatest possible benefit, and that park staff are able to assess and improve leasing activities within park boundaries.

- CSP should conduct an annual survey to gather feedback from all parks with active leasing programs on the function of the program (at local, regional, and WASO levels), type/scope of leasing activity in the park, as well as challenges and successes on the ground.
- Parks should utilize a standard process by which to assess the health of each individual lease, as well as the outcomes of the park-wide leasing program. Program managers might adapt the

A-126 checklist for park-level use. This is in addition to the mandated safety inspection and/or condition assessments.

- The database that was partially developed for this project should be completed and used to identify a simple set of measures by which to gauge the health and activity of the entire program. This requires that the database be populated with active lease information and maintained and that quality checks on the quality of data are established. One quality check method is to provide parks engaged in leasing with the appropriate PWE to ensure that AOC system of record is accurately representing leasing revenue. Revenue accounting is one topic that might be covered in training and/or orientation.

RECOMMENDATIONS CONCLUSION

This chapter presented recommendations for Leasing Program improvements, aimed at ensuring that the program is able to support the use of the leasing authority for the full benefit of parks and the NPS mission. The four barriers identified through analysis of findings provided the baseline for the development of strategic recommendations, and they were refined through extensive discussion with CSP leasing point of contacts. The next chapter outlines the prioritization of these recommendations and suggests best practices for implementation.

CONCLUSION—RECOMMENDATION PRIORITIZATION AND IMPLEMENTATION

The available authorities related to leasing activities are relatively new and remain underutilized for much of NPS. The Leasing Program is also in its infancy and has great potential to mature into a sophisticated, strategic body of guidance and support. As evidenced by this report, potential enhancements to the program are numerous; it is not realistic to expect that NPS will have the time and staff capacity to implement all recommendations immediately. It serves NPS to prioritize these recommendations strategically, particularly since funding

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is limited. To help alleviate the capacity constraints on both WASO and park staff, a staggered approach to implementation will ensure the Leasing Program makes steady progress in realizing its potential.

A prioritization matrix is a useful tool to help identify the level of effect and ease of implementation for each recommendation. The figure on the following page illustrates how the recommendations were prioritized during a meeting between CPM and the NPS in September 2010. Ease of implementation is represented on the X-axis, while

overall effect of the recommendation to NPS is charted across the Y-axis. Those recommendations which fall into the high impact and greater ease of implementation quadrant represent quick wins for the program. When completed, these program modifications should provide NPS greater ability to make use of the authorities and maximize program benefits.

The recommendations represented by green circles were identified by the NPS as high priority for their potential as both starting points and quick wins. Those in yellow represent recommendations that are not possible without a commitment for significant additional financial resources, likely base funding, for the Leasing Program.

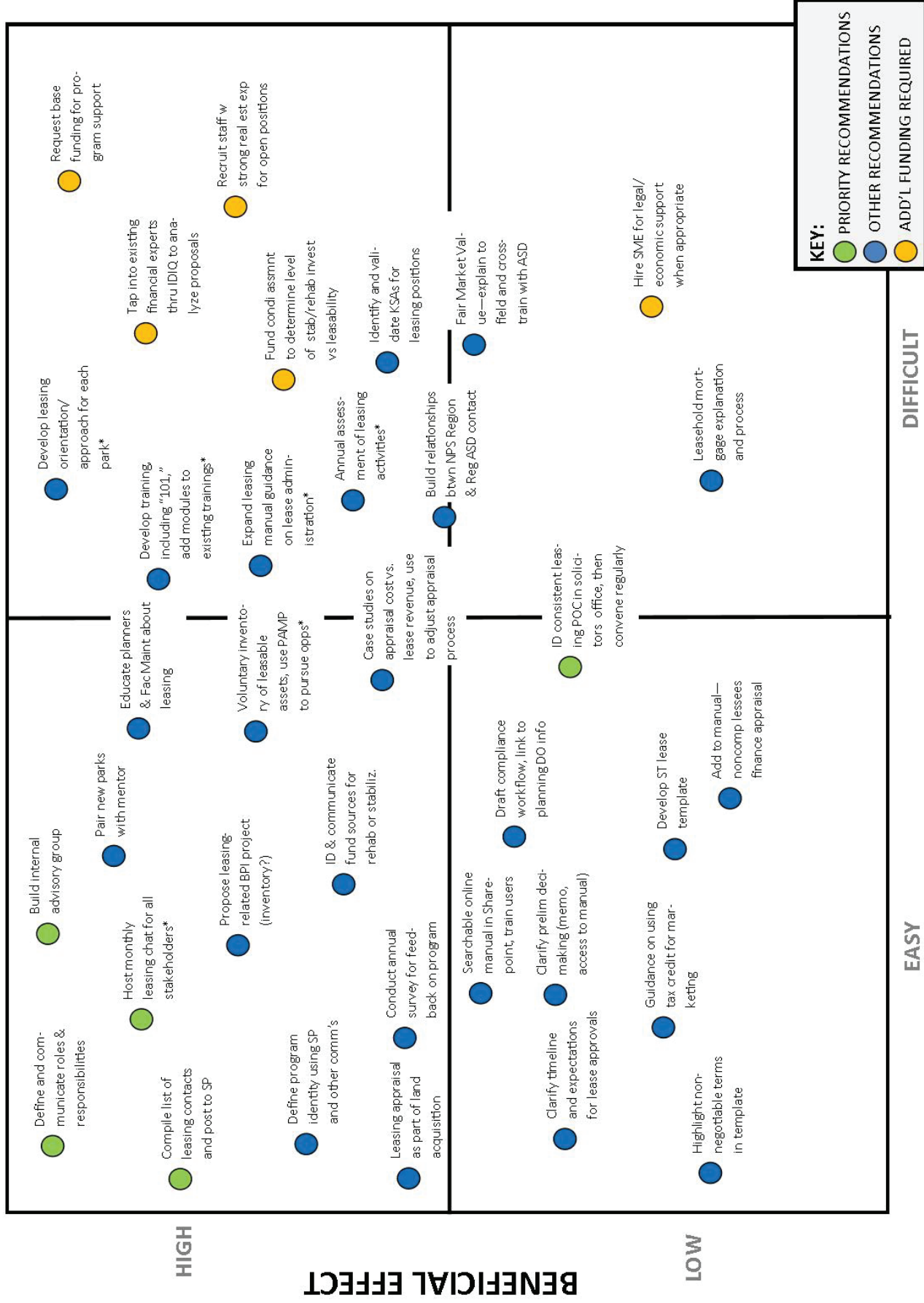
It is recommended that NPS use this prioritization matrix to develop an implementation plan that includes timelines for achievement and the parties who will be involved. As a best practice learned from the implementation of previous national initiatives, field participation in the implementation process increases buy-in and ensures new procedures are practical and beneficial across the Service.

The parks currently using the leasing authorities all testified to the benefits of leasing, were forthcoming about potential improvements, and are enthusiastic about the program's potential. The findings and recommendations in this report are presented with the confidence that NPS is ready to invest the necessary

... these program modifications should provide NPS greater ability to make use of the authorities and maximize program benefits.

resources to support the growth of this program. With this support, leasing will develop into a more coordinated, strategic, and robust program and leasing administrators will be enabled to fully utilize the leasing authority for the greatest benefit of the parks and their missions.

Prioritization Matrix



APPENDIX A: 36 CFR PART 18 REGULATIONS

TITLE 36: PARKS, FORESTS, AND PUBLIC PROPERTY

PART 18—LEASING OF PROPERTIES IN PARK AREAS

Section Contents

- § 18.1 What is the authority and purpose for this part?
 - § 18.2 What definitions do you need to know to understand this part?
 - § 18.3 What property may be leased?
 - § 18.4 What determinations must the Director make before leasing property?
 - § 18.5 May property be leased without receiving fair market value rent?
 - § 18.6 Are there limitations on the use of property leased under this part?
 - § 18.7 How are lease proposals solicited and selected if the Director issues a Request for Bids?
 - § 18.8 How are lease proposals solicited and selected if the Director issues a Request for Proposals?
 - § 18.9 When may the Director lease property without issuing a request for bids or a request for proposals?
 - § 18.10 How long can the term of a lease be?
 - § 18.11 What general provisions must a lease contain?
 - § 18.12 What specific provisions must a lease contain?
-

Authority: 16 U.S.C. 1 et seq., particularly 16 U.S.C. 1a–2(k), and, 16 U.S.C. 470h–3.

Source: 66 FR 66759, Dec. 27, 2001, unless otherwise noted.

§ 18.1 What is the authority and purpose for this part?

16 U.S.C. 1 et seq., particularly 16 U.S.C. 1a–2(k), and, 16 U.S.C. 470h–3 are the authorities for this part. These authorities allow the Director (or delegated officials) to lease certain federally owned or administered property located within the boundaries of park areas. All leases to be entered into by the Director under these authorities are subject to the requirements of this part, except that, proposed leases that were solicited pursuant to this part prior to January 28, 2002, may be executed in accordance with the terms of the solicitation.

§ 18.2 What definitions do you need to know to understand this part?

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

- (a) Associated property means land and/or structures (e.g., parking lots, retaining walls, walkways, infrastructure facilities, farm fields) related to a building or buildings and their functional use and occupancy.
- (b) Building means an enclosed structure located within the boundaries of a park area and constructed with walls and a roof to serve a residential, industrial, commercial, agricultural or other human use.
- (c) Commercial use authorization means a written authorization to provide services to park area visitors issued by the Director pursuant to Section 418 of Public Law 105–391 and implementing regulations.

(d) Concession contract has the meaning stated in 36 CFR part 51.

(e) Fair market value rent means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the property to be leased, under the terms and conditions of the lease, should rent for its highest and best permitted use after reasonable exposure in a competitive market under all conditions requisite to a fair leasing opportunity, with the lessor and the lessee each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Determinations of fair market value rent under this part are to be made taking into account the considerations stated in §18.5.

(f) Historic building means a building or buildings located within the boundaries of a park area if the building is part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(g) Historic land means land located within the boundaries of an historic property.

(h) Historic property means building(s) and land located within the boundaries of a park area if the building(s) and land are part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(i) Land means unimproved real property.

(j) Lease means a written contract entered into under the authority of this part through which use and possession of property is granted to a person for a specified period of time.

(k) Non-historic building is a building (or buildings) and its associated property located within the boundaries of a park area but not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(l) Non-historic land means land located within the boundaries of a park area that is not associated property and is not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(m) Non-historic property means building(s) and/or land that are located within the boundaries of a park area but are not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(n) Park area means a unit of the national park system.

(o) Property means both historic and non-historic property that is located within the boundaries of a park area and is federally owned or administered.

(p) Request for bids refers to the lease bid process described in §18.7.

(q) Request for proposals refers to the lease proposal process described in §18.8.

(r) Responsive bid or proposal means a timely submitted bid or proposal that meets the material requirements of a request for bids or a request for proposals.

§ 18.3 What property may be leased?

(a) In general. The Director may lease any property (except non-historic land) under this part if the Director makes the determinations required by §18.4.

(b) Non-historic land. Non-historic land may not be leased under this part. Certain non-historic land is eligible for leasing under 36 CFR part 17.

§ 18.4 What determinations must the Director make before leasing property?

Before leasing property in a park area under this part, the Director must determine that:

- (a) The lease will not result in degradation of the purposes and values of the park area;
- (b) The lease will not deprive the park area of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration of the park area;
- (c) The lease contains such terms and conditions as will assure the leased property will be used for activity and in a manner that are consistent with the purposes established by law for the park area in which the property is located;
- (d) The lease is compatible with the programs of the National Park Service;
- (e) The lease is for rent at least equal to the fair market value rent of the leased property as described in §18.5;
- (f) The proposed activities under the lease are not subject to authorization through a concession contract, commercial use authorization or similar instrument; and
- (g) If the lease is to include historic property, the lease will adequately insure the preservation of the historic property.

§ 18.5 May property be leased without receiving fair market value rent?

Property may be leased under this part only if the lease requires payment of rent to the government equal to or higher than the property's fair market value rent. The determination of fair market value rent shall take into account:

- (a) Any restrictions on the use of the property or terms of the lease that limit the value and/or the highest and best use of the property; and
- (b) Any requirements under the lease for the lessee to restore, rehabilitate or otherwise improve the leased property.

§ 18.6 Are there limitations on the use of property leased under this part?

(a) A lease issued under this part may authorize the use of the leased property for any lawful purpose, subject to the determinations required by §18.4 and the limitations on activities set forth in paragraph (b) of this section.

(b) Unless otherwise authorized by law, a lease issued under this part may not authorize the lessee to engage in activities that are subject to authorization through a concession contract, commercial use authorization or similar instrument. Proposed lease activities are subject to authorization under a concession contract if the Director determines in accordance with 36 CFR part 51 and park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a concession contract. Proposed activities are subject to authorization under a commercial use authorization if the Director determines in accordance with park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a commercial use authorization.

§ 18.7 How are lease proposals solicited and selected if the Director issues a Request for Bids?

(a) If the amount of the rent is the only criterion for award of a lease, the Director may solicit bids through issuance of a request for bids as described in this section. If historic property 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) at an appropriate time during the leasing process.

(b) A request for bids under this section shall be advertised by public notice published at least twice in local and/or national newspapers of general circulation. The notice shall provide at least a thirty (30) day period from the last date of publication for the submission of sealed bids. The notice will provide necessary information to prospective bidders. It may specify a minimum rent and/or require submission of a rent deposit or advance rent payment. Bids will be considered only if timely received at the place designated in the request. Bids must be in the form specified by the Director, or, if no form is specified, a bid must be in writing, signed by the bidder or authorized representative, state the amount of the bid, and refer to the applicable public notice. If the notice requires submission of a rent deposit or advance rent payment, the bids must include the required funds in the form of a certified check, post office money order, bank drafts, or cashier's checks made out to the United States of America. The bid (and payment where applicable) must be enclosed in a sealed envelope upon which the bidder shall write: "Bid on lease of property of the National Park Service" and shall note the date the bids are to be opened.

(c) Bids will be opened publicly by the Director at a time and place specified in the public notice. Bidders or their representatives may attend the bid opening. The bidder submitting a responsive bid offering the highest rent will be selected for award of the lease (subject to a determination of financial capability by the Director). A responsive bid is a bid that meets the material terms and conditions of the request for bids. The Director shall accept no bid in an amount less than the fair market rental value as determined by the Director. If two or more bids are equal, a drawing shall make the lease award by lot limited to the equal responsive bids received.

(d) When a property is to be leased through a request for bids, the bidder that is declared by the Director to be the high bidder shall be bound by his bid and this part to execute the offered lease, unless the bid is rejected. If the declared high bidder fails to enter into the lease for any reason, the Director may choose to enter into the lease with the next highest bidder (if that bidder offered to pay at least the fair market rent value). The Director may reject any and all bids in his discretion and resolicit or cancel a lease solicitation under this part at any time without liability to any person.

§ 18.8 How are lease proposals solicited and selected if the Director issues a Request for Proposals?

(a) When the award of a lease is to be based on selection criteria in addition to or other than the amount of the rent, the Director must, subject to §18.9, solicit proposals for the lease through issuance of a public Request for Proposals (RFP).

(b) An RFP may be preceded by issuance of a public Request for Qualifications (RFQ). The purpose of an RFQ is to select a "short list" of potential offerors that meet minimum management, financial and other qualifications necessary for submission of a proposal in response to an RFP. If the Director issues an

RFQ, only persons determined as qualified by the Director under the terms of the RFQ shall be eligible to submit a proposal under the related RFP.

(c) The Director must provide public notice of the leasing opportunity by publication at least twice in local and/or national newspapers of general circulation and/or through publication in the Commerce Business Daily. The public notice shall contain general information about the leasing opportunity and advise interested persons how to obtain a copy of the RFP (or RFQ where applicable). The RFP (and RFQ where applicable) shall contain appropriate information about the property proposed for lease, including limitations on the uses of the property to be leased, information concerning the leasing process, information and materials that must be contained in a proposal, the time and place for submission of proposals, terms and conditions of the lease, and the criteria under which the Director will evaluate proposals. The RFP may state the fair market value rent as the minimum acceptable rent if determined by the Director at that time. The RFP (and RFQ where applicable) must allow at least sixty (60) days for submission of proposals (or qualifications under an RFQ) unless a shorter period of time is determined to be sufficient in the circumstances of a particular solicitation.

(d) The Director may determine that a proposal is non-responsive and not consider it further. A non-responsive proposal is a proposal that was not timely submitted or fails to meet the material terms and conditions of the RFP. After the submission of offers and prior to the selection of the best overall proposal, the Director may request from any offeror additional information or written clarification of a proposal, provided that proposals may not be amended after the submission date unless all offerors that submitted responsive proposals are given an opportunity to amend their proposals. The Director may choose to reject all proposals received at any time and resolicit or cancel a solicitation under this part without liability to any person.

(e) (1) The criteria to be used in selection of the best proposal are:

(i) The compatibility of the proposal's intended use of the leased property with respect to preservation, protection, and visitor enjoyment of the park;

(ii) The financial capability of the offeror to carry out the terms of the lease;

(iii) The experience of the offeror demonstrating the managerial capability to carry out the terms of the lease;

(iv) The ability and commitment of the offeror to conduct its activities in the park area in an environmentally enhancing manner through, among other programs and actions, energy conservation, waste reduction, and recycling; and

(v) Any other criteria the RFP may specify.

(2) If the property to be leased is an historic property, the compatibility of the proposal with the historic qualities of the property shall be an additional selection criterion. If the RFP requires proposals to include the amount of rent offered, the amount of rent offered also shall be an additional selection criterion.

(f) The Director will evaluate all responsive proposals received. The responsive proposal determined by the Director to best meet on an overall basis the evaluation criteria will be selected for negotiation of the lease. If two or more responsive proposals are determined by the Director to be substantially equal under the evaluation criteria, the Director shall provide an opportunity for those proposals to be amended by

their offerors as necessary for the Director to select the best amended proposal. In such circumstances, the Director will provide each offeror that submitted a substantially equal proposal appropriate information as to how their proposals may be amended in order to enhance the possibility of selection as the best amended proposal. If two or more proposals remain as substantially equal after amendment, the Director will select for negotiation of the lease from among these proposals the proposal that the Director determines on an overall basis will be most beneficial to effective management of the park area.

(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 if 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 under 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.

APPENDIX B: LEASING INTERVIEW PROTOCOL

INTRODUCTION

Caller should begin by: (1) introducing himself/herself, (2) asking if this is still a good time to talk, (3) thanking the respondent for his/her time and (4) giving the following background information about the Leasing project.

The Center for Park Management (CPM) is partnering with the National Park Service (NPS) on an initiative designed to improve and optimize the Service's Leasing Program. Specifically, CPM is conducting a comprehensive programmatic evaluation of the Leasing Program in order to ensure that NPS is making effective use of its leasing authorities for the benefit of park areas and the national park system and to implement improvements to the program.

As such, we are conducting these interviews in order to assess the strengths and weaknesses of the program, as well as to determine the various processes used in the field to execute leases. We do not expect you to answer to all of the questions below; they are designed to simply guide our conversation.

Do you have any questions before we get started?

Finally, I'd like to ask permission to record our conversation [indicate note taking or audio recording]?

Are you ready to begin?

INTERVIEW QUESTIONS

Organizational Context and Interviewee Background:

1. What is your involvement in the leasing program? How long have you been working on the program?
2. What percentage of your time is devoted to leasing issues/the program?
3. Do you feel you have a comprehensive understanding of the leasing program at NPS? If not, do you know where to find answers, get support?
4. If your park is pursuing leases, what is its motivation? (I.e. revenue to improve structure, partnering benefits, mandated)?

Lease Execution Process:

1. How do your leasing opportunities arise? Do you proactively seek leases?
2. Would you please describe the process you use to execute a lease?
 - a. What are the key steps of the process
 - b. Subset of questions for each step.
 - i. How long did the step take?
 - ii. Who was involved in completing this step?
 - iii. Were any challenges encountered at this step?
 - iv. How would you recommend making this step easier?

- c. Do you reference the NPS leasing manual?
- d. Have you developed your own local process?
 - i. Would you mind sharing it with me?
- e. On average, how long does it take to complete a lease from concept to completion?
- f. How many staff members are involved in execution? How many FTEs does this equate to?
- g. What are the lines of authority and supervision for your leasing activities?
- h. How many active leases do you have and how many are in the development stage?
- i. How do you monitor the property throughout its lease term?
- j. Have you enjoyed improvements to structures as a result of the leasing program?

Leasing Program Training & Support, Successes & Challenges:

- 1. Do you have adequate support/training to pursue and complete leases?
 - 1. To what extent do you receive support from your Region/WASO?
- 2. Do you have the appropriate tools and information to guide you through the lease process?
- 3. What areas of the leasing program effectively work for you/your park?
- 4. What types of challenges have you faced? How have they been addressed?
- 5. Do you view the leasing program as a good source of revenue or is it a drain on your resources?
- 6. In general, do you feel the leasing authorities are or can be beneficial to the NPS?

Communication:

- 1. How do you communicate with staff and the public about the Leasing Program?
- 2. How do you build understanding of the project?
- 3. Have there been staff or public concerns re: leasing program? If so, how were they addressed?

Continuous Improvement:

- 1. Have you evaluated your individual leasing program? If so, how was this done?
- 2. If any, what kind of measures/benchmarks do you use to assess leasing activities?
- 3. What kind of formal feedback mechanisms do you have in place? How is collected information used?
- 4. What types of improvements have you made over time? Please provide an example of a process change that was instituted to improve your program.
- 5. How do you report your successes and to whom?
- 6. What stands in your way to success and what are the roadblocks that prevent you from pursuing leases that could be beneficial to your park? (I.e. capacity, resources, complex legal structure.)
- 7. A comprehensive database is being developed to collect all active leases. Do you have any suggestions on items you'd like captured in this inventory?

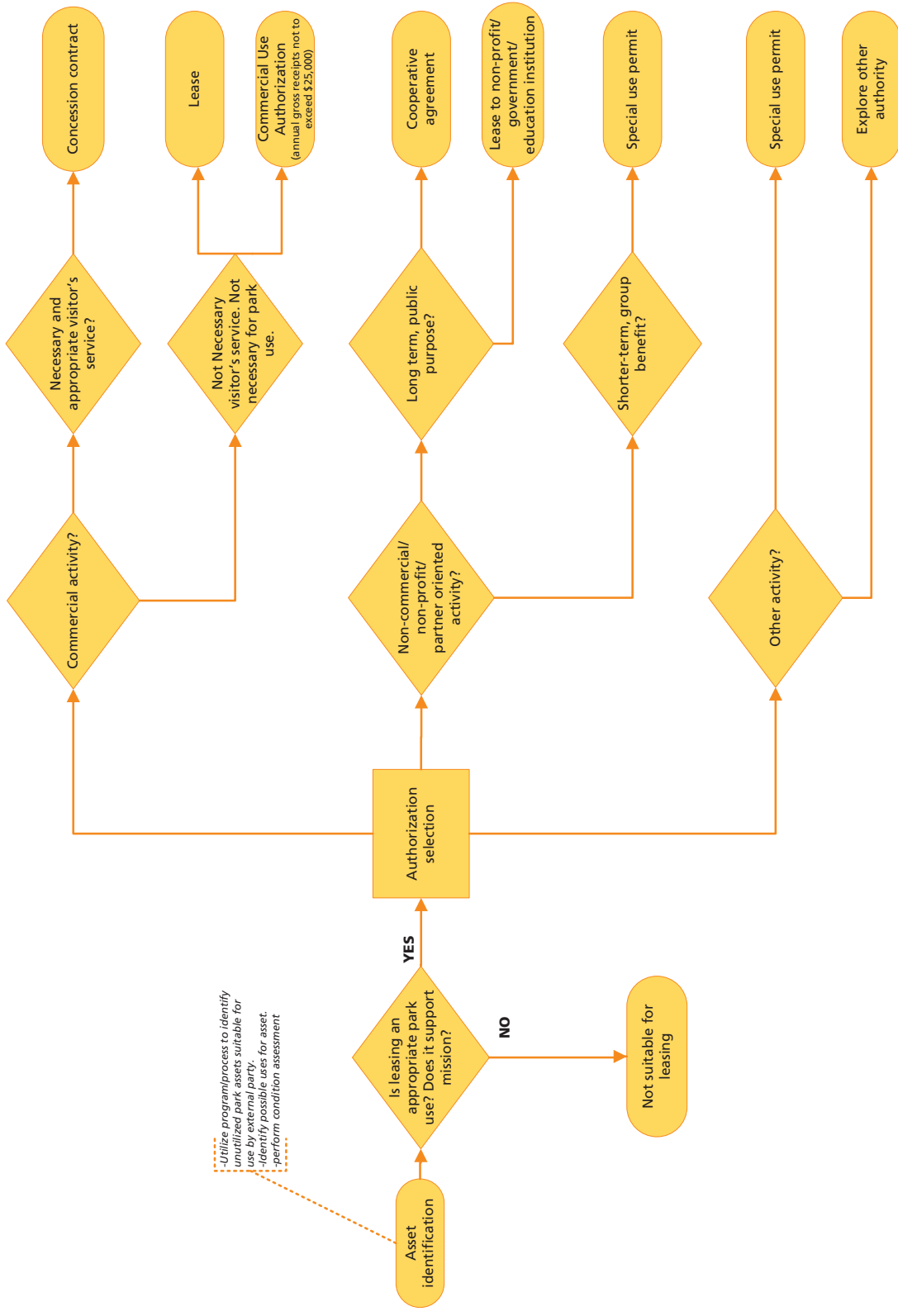
Lessons learned:

1. Reflecting back on your experiences, what lessons have you learned?
2. Other advice for those working on the leasing program?
3. Do you have any specific recommendations to improve the program?
4. Anything else you'd like to add?
5. What could WASO and the regional office do to support your leasing program efforts?

Thank you again for your time. If needed, would you mind if I contact you for more information?

APPENDIX C: GENERAL STEPS IN ASSET IDENTIFICATION

ASSET IDENTIFICATION



*Identifying appropriate uses for assets is a complex process. Above chart to be used for discussion purposes only and does not explain all nuances involved in the asset identification process.

APPENDIX D: ROLES & RESPONSIBILITIES (RACI) CHART

The following chart, which has also been provided to NPS leasing program managers as an electronic Microsoft Excel file, describes the identified steps of the NPS leasing process. NPS can use this chart to begin to assign responsibilities of the park, region and WASO to execute a lease in the most efficient means possible. While it is noted that NPS currently has several parks with established leasing programs that rely less on assistance from Region and WASO, the assignment of roles will still be valid for most parks undergoing the leasing process.

RACI charts are a common business process design tool used to help develop and communicate roles and responsibilities of a given process. For each process step, responsibilities are divided amongst staff that have a role in the process according to the following table:

- Responsible (R): the person or people responsible for getting the job done.
- Accountable (A): the person who is accountable for each task (can only be one person).
- Consulted (C): The people who are consulted and whose opinions are sought. (often before process step completion)
- Informed (I): the people that are kept up-to-date on progress. (potentially one way communication and/or after step is concluded)

The following guidelines will help in assigning roles:

1. Often times, the person responsible for a given task may also be the one accountable.
2. There can be multiple people responsible, consulted and informed, but only one person is accountable.
3. Not every box needs to be filled in
4. There should be an “R” and an “A” for each task, but not necessarily a “C” or “I”
5. Overuse of “C’s” or “I’s” can slow down the process. Will all these people really need to know about this?
6. Seek feedback and buy in of the completed RACI table from the people who will serve in these roles.

Lease Process Step	Park Staff	Superintendent	Region	WASO	Solicitor
<i>Sample Process step</i>	<i>R</i>	<i>R,A</i>	<i>C</i>		
Planning for a Lease					
Identify eligible property					
Determine park's capacity to lease					
Assess feasibility of property					
Contact OVS to assess cost of appraisal					
Receive informal estimate of fair market value					
Comply with NEPA					
Preparation and Marketing					
Prepare formal authorization justifications					
Obtain NPS internal project approval					
Develop public relations/information strategy					
Identify nonprofits to solicit (non-competitive)					
Determine use, limitations, scope of improvements (non-competitive)					
Determine fair market value using OVS (non-competitive)					
Prepare RFQ, RFB, RFP for solicitors review (competitive)					
Obtain conditional assessment evaluation (competitive)					
Fair market rent determination and valuation (competitive)					
Develop and distribute solicitation (competitive)					
Evaluation, Selection, and Execution					
Proposal evaluation					
Solicitor review					
Lease selection					
Draft lease					
Lease Management					
Enforce Contract					
Lease compliance inspections					
Annual rent increases, if applicable					
Requested changes approved by park					
Major construction monitored by park					

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