

United States Senate

WASHINGTON, DC 20510

March 3, 2014

Senator Mary Landrieu
Chair, Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Senator Lisa Murkowski
Ranking Member
304 Dirksen Senate Building
Washington, DC 20510

Senator Mark Udall
Chair, Subcommittee on National Parks
304 Dirksen Senate Building
Washington, DC 20510

Senator Rob Portman
Ranking Member
304 Dirksen Senate Building
Washington, DC 20510

Dear Committee Members:

I write regarding an Acadia National Park (“the Park”) concessions contract (CC-ACAD0001-14) that was transmitted to your Committee for review on February 4, 2014. I believe that the selection process for this contract was seriously flawed – flaws which will harmfully impact the Park and the surrounding community. I look forward to working with you to exercise the committee’s right as set out under the National Parks Omnibus Management Act of 1998 to undertake a substantive review of the contract and the selection process in your committee, and to exploring why the National Park Service (NPS) is operating in a manner detrimental to parks, host communities, and states. Further, I request that the committee exercise its right to hold the contract until such a review has occurred, past 60 days, if necessary.

Pursuant to the National Parks Omnibus Management Act of 1998, a Congressional review period of *at least* 60 days runs from the day that NPS transmits a contract to the relevant House and Senate committees, after which time the contract takes effect, assuming no objections have been raised. I ask that – pursuant to the 1998 Act – you not discharge the contract from your committee until a thorough review has been completed. Due to this timing, I request the opportunity to work with your committee to schedule a briefing with NPS, and, if necessary, hold a hearing on NPS mismanagement of this selection process. This is particularly necessary because I have not been able to receive satisfactory information from NPS.

The Maine-based Acadia Corporation, the long-serving concessioner at the Park, began providing concessions in 1933. Acadia Corp. operated the Jordan Pond House Restaurant and retail store, and retail services at the top of Cadillac Mountain, and at Thunder Hole, and has been an exemplary concessioner by all accounts – those of NPS, the Bar Harbor community surrounding the Park, and the Park itself.

In fact, NPS rated the Acadia Corp. as “one of the best concessionaires in the National Park Service” in its annual overall rating report for 2011. It is my impression that the winning bidder is also an exemplary concessioner.

Due to the expiration of Acadia Corp.’s contract, in July of 2012 NPS sought bids to provide concession services at the Park and Acadia Corp. participated in this process. On September 23, 2013, NPS announced that it had selected another applicant and that Acadia Corp. would lose its contract with the Park. I heard from many constituents who were outraged at this decision and, on their behalf, I investigated the process. As a result, I have discovered that the process was fundamentally flawed and that NPS did not follow its own procedure and did not select “the best proposal” as mandated by the 1998 Concessions Act.

Although the proper forum is a committee briefing, and perhaps a hearing, I would like to briefly outline my concerns with the selection process:

1. A technical advisor knowledgeable of Acadia National Park who was made available for the selection process was never utilized or consulted. In addition, no other person familiar with the Park, or its Management Plan, was involved in the process. This was in contravention of the procedure which NPS had specifically established for this selection process in order to ensure that the Panel members – who were deliberately selected because they were not associated with Acadia – would nonetheless make an educated decision. I believe that this process was inherently problematic, regardless of which National Park is involved, because each National Park is unique. It is critical that those unique qualities be included in any evaluation of which concessioner is best suited to operate in that location; by not consulting a technical advisor, these unique qualities were not considered by NPS.
2. In addition, NPS apparently violated another safeguard set up for the evaluation by appointing a voting panel member familiar with the selected awardee, even though it prohibited any voting members who were familiar with Acadia Corporation.
3. Although NPS has kept much of the relevant information secret, it is my understanding that there were serious discrepancies between the winning bidder’s response to the prospectus and the terms of the final contract. This resulted in a final contract that omits many of the key proposed terms that formed the basis for NPS assessing that proposal as “the best proposal.”

I am concerned that NPS evaluates proposals without regard for the practicability of the offerors implementing the terms of their proposals. For example, NPS may have failed to recognize the deficiencies of a proposal to serve native sturgeon roe at the Jordan Pond House Restaurant. Obviously, this could not be implemented under the contract because the two species of sturgeon which are native to Maine are threatened and endangered species listed under the Endangered Species Act. In addition, it is my understanding that the winning offeror also included a proposal to significantly expand the parking facilities beyond what is feasible at the Park. Any failure by NPS to recognize these facts would demonstrate that NPS was not focused or aware of what actually is, and is not, possible at Acadia National Park.

4. NPS has demonstrated a pattern of inadequate management of the selection process, including undue delay which has prejudiced the opening of concessions at the Park. This

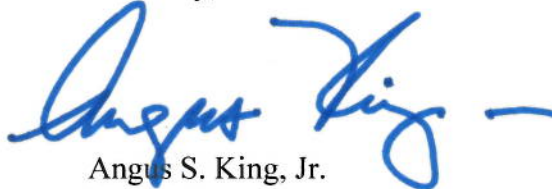
mismanagement is true both for NPS's communications with the concessioners and with concerned constituents and representatives. For example, Senator Collins and I wrote to NPS on November 7, 2014 expressing our concerns. We did not receive a response from NPS until February 4, 2014. However, this letter was identical to a draft response that NPS inadvertently made public on December 4, 2013. In addition, the language was identical to a FAQ that NPS posted on November 22, 2013. This shows that NPS made their decision a number of months before their pro forma response to our offices.

Last year the Park opened late due to sequestration and lost significant revenue due to the partial government shutdown. I am concerned that NPS's delay and mismanagement of the concessions process has jeopardized the ability of a concessioner to open Jordan Pond House on time this year, which will again adversely impact the Park.

In order for the briefing to be productive, NPS needs to produce copies of Acadia Corp.'s proposal as well as that of the selected awardee, and any other proposal that was rated higher than Acadia Corp.'s proposal, so that they may be compared to the final contract. In fact, Acadia Corp. has provided me with a copy of their proposal and is willing to provide it to the committee to facilitate a proper and thorough review. In addition, NPS must provide their evaluations for these proposals. NPS must also produce a detailed outline of their selection process, including a timeline, who was involved in the selection, their background and reason for being selected for the evaluation panel, and in what manner they were involved. Finally, NPS must produce documents which set out and explain the process that it went through to determine which parts of the selected proposal were to be included, or not included, in the final contract that you have before you.

For your reference I have attached our letter to NPS, dated November 7, 2014. I have also attached NPS's final response to Senator Collins and me, as well as their draft and FAQ. I look forward to scheduling a briefing with your committee and NPS, at your earliest possible convenience, to learn the details of the selection process, and why established protocol was not followed. If you have any questions please have your office contact Chris Rauscher in my office.

Sincerely,

A handwritten signature in blue ink that reads "Angus King". The signature is fluid and cursive, with a horizontal line extending to the right from the end of the name.

Angus S. King, Jr.
United States Senator

United States Senate

WASHINGTON, DC 20510

November 7, 2013

The Honorable John Jarvis
Director
National Park Service
Washington, D.C. 20240

Dear Director Jarvis:

We are writing regarding the announcement by the National Park Service (“NPS”) that a new concessioner has been selected at Acadia National Park (“Acadia” or “ANP”) and to bring to your attention what we believe are serious flaws in the process as well as the outpouring of opposition we have heard from hundreds of constituents in Maine in response to the selection. Serious questions have been raised about the review process and the criteria used by NPS in making the decision, which led to the selection of an out-of-state concessioner. As you review the selection decision by the regional office, we request that you fully evaluate the many serious concerns that have been raised about the selection process, which we have outlined below.

The current concessioner, The Acadia Corporation, began providing concessions at ANP in 1933. Acadia Corp. currently operates the Jordan Pond House Restaurant and retail store, and retail services at the top of Cadillac Mountain and at Thunder Hole and has a working relationship with NPS that has been remarkable in all respects. Over the years, NPS employees and administrators have worked closely with Acadia Corp. to serve the Park’s objectives and to ensure that all visitors are well served. To our knowledge, this relationship has been a model of harmony and cooperation.

Pursuant to the National Parks Omnibus Management Act of 1998, it is our understanding that the NPS sought bids to provide concession services at Acadia in July 2012 and that Acadia Corp. participated in this process. On September 23, 2013, the NPS announced that it had selected another applicant and that, in all likelihood, Acadia Corp. would lose its contract with ANP.

We have reviewed the concerns raised by our constituents and stakeholders in Maine about the selection, which has led to questions about both the process employed and the decision reached by the NPS.

First, we are concerned that Acadia Corp., with its long, unbroken experience with Acadia and the NPS—a relationship stretching back 80 years—would have lost this competition to an out-of-state applicant with, as far as we can determine, no ties to the park, the region, or even the state of Maine. We are equally concerned that Acadia Corp. lost this selection without any prior suggestion that the company had provided anything less than superlative and valuable services to Acadia and to the NPS.

Little, if any, weight seems to have been given to Acadia Corp.'s tenure with ANP, the local employees and administrators of the park, the large numbers of visitors who enjoy the park, and the residents and communities for whom the park is a great resource and valued neighbor. We believe that these factors should have been given considerable weight. Replacing a long and valued partner with inestimable knowledge of not only the immediate needs of the park but also its long, rich, and varied history inevitably creates risk of error and inefficiency, not to mention, a lack of sensitivity to innumerable distinctive local practices. We note that giving great weight to these factors is not only logical but is also required by the National Parks Omnibus Management Act.

In explaining Section 403(5) of the Act, the House Report advised that, "...it is the intent of the Committee that the Secretary, when reviewing the principal factors for selecting the best proposal, give substantial consideration and weight to the experience, background and past performance of those submitting the proposal." The report went on to explain, "[t]he **proven and acceptable experience and expertise** the prospective concessionaire exhibits in providing the goods or services to the public should be regarded as **highly important** to the selection of the best proposal." (Emphasis added.) This principle – that experience counts – seems to have been given no weight in this decision.

In Acadia Corp.'s case, the direction from the House Report seems especially pertinent. As you know, the NPS rated The Acadia Corp. as "one of the best concessionaires in the National Park Service" in its annual overall rating report for 2011. We understand that the 1998 Act prohibits a preferential right of renewal for an incumbent concessioner – and we agree that such a right should be prohibited. However, we are troubled that Acadia Corp.'s exemplary experience does not appear to have been considered.

The circumstances under which the NPS considered the selection for concessions at ANP seems to have severely limited the ability of the reviewers to weigh Acadia Corp.'s extensive and unblemished history of service. Moreover, we have been informed that NPS policy excludes employees and administrators from the affected park from the selection panels. At the same time, however, we noted in the press release announcing the selection of a new concessioner that a technical advisor from Acadia was to be available during the selection panel's meeting to answer any questions the panel may have. We understand that selection panels regularly and routinely solicit comments from such a technical advisor.

Yet, when the selection panel met in Philadelphia to consider the applications for ANP, the technical advisor from Acadia was not present. Instead, the individual was advised that she did not need to attend and that it would be sufficient if she would simply make herself available to answer questions posed by telephone. Although the selection panel conducted its review over a five day period, the technical advisor received no calls.

We believe that this was a very serious omission. First, by failing to require the presence of a technical advisor and then compounding this error by failing to contact this individual, the selection panel deprived itself entirely of the local park perspective essential to the review process and to fulfillment of the intent of the National Parks Omnibus Management Act.

By depriving itself of this important perspective, the selection panel rendered itself incapable of properly applying the point system the NPS devised for the review. Not only did the selection panel forfeit a technical advisor's knowledge of the actual experience with and competence of Acadia Corp., but the panel arguably also lacked the ability to judge the soundness of claims from competitors for the practicality and soundness of competitors' claims for "innovation"—another NPS criterion. Having failed to question a technical advisor, the selection panel would have had no reliable way of assessing applicant's claims of what would work and what would not work at Acadia.

We ask that you respond to the following questions about the selection process: Why was Acadia Corp.'s long-standing and exemplary experience as a concessionaire at Acadia not considered? Why was the perspective of a technical advisor from Acadia National Park not considered by the panel during the five-day selection process? How will NPS re-evaluate the selection process to ensure fairness and transparency?

In addition, we urge you to independently review the process employed in this matter and to re-evaluate the selection process, in accordance with all applicable laws and regulations. Moreover, we request that the regional director visit Acadia to fully understand the complexities and difficulties that are unique to the park and to hear the reaction of local stakeholders to the selection process and ask that you notify us when a date for this visit has been scheduled.

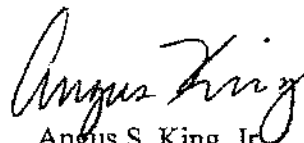
We are deeply troubled by the process that the NPS employed in considering applications for concession operations at Acadia. Although we fully support a competitive selection process and believe that no concessionaire should be considered immune from replacement, we also believe that long, faithful, and excellent service should be given the full weight that fundamental fairness and common sense warrant and that the law requires.

Thank you for your prompt attention to this issue. We look forward to meeting with you at your earliest convenience to further discuss these issues and the findings of your review.

Sincerely,



Susan M. Collins
U.S. Senator



Angus S. King, Jr.
U.S. Senator



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO

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FEB 04 2014

The Honorable Angus S. King, Jr.
United States Senate
Washington, DC 20510

Dear Senator King:

Thank you for your letter of November 7, 2013, regarding the National Park Service's (NPS) selection of Dawnland, LLC as the new concessioner to provide food and beverage and retail services at Acadia National Park.

The NPS issues concession contracts pursuant to the NPS Concessions Management Improvement Act of 1998 (Title IV of Pub. L. 105-391.), and subsequent regulations (36 CFR Part 51) and policies. Section 403(1) of the 1998 Act states that concession contracts shall be awarded "to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary [of the Interior] through a competitive selection process." The 1998 Act made a number of changes in how the NPS awards concession contracts in order to enhance competition for NPS concession contracts. For the contract at Acadia National Park, an evaluation panel of NPS employees and technical experts performed a comprehensive analysis of the proposals and identified the best offeror based on the selection factors specified in Section 403(5)(A) of the 1998 Act.

To review the proposals and recommend the offeror, the NPS Northeast Regional Director convened a panel consisting of NPS personnel, including a park Technical Advisor, with relevant technical and operational expertise. The NPS Commercial Services Program in Washington reviewed and approved the composition of this panel. The panel performed a comprehensive analysis of the proposals, which began soon after the proposals were received. The panel met in person in December, 2012, during which time it reviewed and evaluated the proposals. Dawnland, LLC's proposal received the highest cumulative point score. The Northeast Regional Director forwarded the panel's recommendation to the NPS Associate Director, Business Services, for review and approval. The selection of Dawnland, LLC was then approved by the Associate Director.

We offer the following information in response to your questions:

Why was Acadia Corp.'s long-standing and exemplary experience as a concessionaire at Acadia not considered?

The NPS panel fully considered the information Acadia Corporation provided about its past performance and expertise as part of the evaluation of its proposal under Principal Selection Factor 3, which, as stated in the 1998 Act, considers, "The experience and related background of the offeror, including the past performance and expertise of the offeror in providing the same or similar visitor services as those to be provided under the concession contract." As required by the 1998 Act, the NPS did not give Acadia Corporation preference as the incumbent concessioner. The 1998 Act states that a concessioner is only eligible for a preferential right of renewal if it is either an outfitting and guide concessioner or it generates less than \$500,000 in annual gross receipts. The most recent concession contract with the Acadia Corporation does not meet either of those conditions.

Why was the perspective of a technical advisor from Acadia National Park not considered by the panel during the five-day selection process?

Acadia National Park personnel either provided extensive input into or drafted language for all documents included in the prospectus, with the superintendent of Acadia National Park providing final approval of the complete package before the prospectus was released. The Technical Advisor provided a written summary of operational issues for the prospective concessioner, presented the information in conference calls with the panel before its face-to-face meeting, and participated by phone in another meeting of the full panel in December 2012. As set forth in NPS guidelines, the role of the Technical Advisor is to review proposals as directed by the panel chair and, if requested, provide technical information and advice to the panel (e.g., scope of existing concession operations, environmental regulations, and financial analysis).

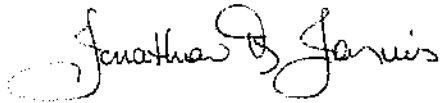
How will NPS re-evaluate the selection process to ensure fairness and transparency?

The Northeast Region and Washington Offices took extraordinary efforts to review the panel evaluation process and conclusions due to concerns expressed by personnel at Acadia National Park regarding the selection of a new concessioner. Over the course of the past summer, personnel in the Washington Office Commercial Services Program were asked to thoroughly review the process and the recommended result. The review was conducted to: (1) ensure the process strictly adhered to applicable law, regulation, and policy; (2) review whether the evaluation faithfully reflected what was contained in the proposals; and (3) confirm whether the panel's scoring of the proposals presented an accurate representation of those contents as they relate to the applicable selection factors and in comparison to other proposals received. The review found all results to be strongly supported and resulted in no changes in the recommended rankings or even specific scores. Further, the review found that the panel operated professionally and in a manner consistent with normal NPS commercial service evaluation panel processes. At this time, no new information has arisen that would trigger further review of the process.

We appreciate your suggestion to have the NPS Regional Director visit Acadia National Park and meet with the superintendent and local stakeholders to listen to their concerns and respond to their questions. Regional Director Dennis Reidenbach retired on January 3, 2014, and

we plan to appoint a new regional director in early 2014. After that selection is made, we will arrange for the new regional director to visit Acadia National Park to touch base with the local constituents. In the meantime, if you have any further questions please call Acting Regional Director Mike Caldwell at 215-597-7059 or via email at mike_caldwell@nps.gov. An identical response is being sent to Senator Susan M. Collins.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan B. Jarvis". The signature is written in black ink and is positioned above the printed name and title.

Jonathan B. Jarvis
Director

Den N. Medley 12/4/13
Regional Director, NE

The Honorable Susan M. Collins
United States Senate
Washington, DC 20240

Dear Senator Collins:

Thank you for your letter of November 7, 2013, regarding the National Park Service's (NPS) selection of Dawnland, LLC as the new concessioner to provide food and beverage and retail services at Acadia National Park. An identical letter is being sent to each cosigner.

The NPS issues concession contracts pursuant to the NPS Concessions Management Improvement Act of 1998 (Title IV of Pub. L. 105-391), and subsequent regulations (36 CFR Part 51) and policies. Section 403(1) of the 1998 Act states that concession contracts shall be awarded "to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary [of the Interior] through a competitive selection process." The 1998 Act made a number of changes in how the NPS awards concession contracts in order to enhance competition for NPS concession contracts. For the contract at Acadia National Park, an evaluation panel of NPS employees and technical experts performed a comprehensive analysis of the proposals and identified the best offeror based on the selection factors specified in Section 403(5)(A) of the 1998 Act.

To review the proposals and recommend the offeror, the NPS Northeast Regional Director convened a panel consisting of NPS personnel, including a park Technical Advisor, with relevant technical and operational expertise. The NPS Commercial Services Program in Washington reviewed and approved the composition of this panel. The panel performed a comprehensive analysis of the proposals which began soon after the proposals were received. The panel met in person in December, 2012, during which time it reviewed and evaluated the proposals. Dawnland, LLC's proposal received the highest cumulative point score. The Northeast Regional Director forwarded the panel's recommendation to the NPS Associate Director, Business Services, for review and approval. The selection of Dawnland, LLC was then approved by the Director of the National Park Service.

We offer the following information in response to your questions:

Why was Acadia Corp.'s long-standing and exemplary experience as a concessionaire at Acadia not considered?

The NPS panel fully considered the information Acadia Corporation provided about its past performance and expertise as part of the evaluation of its proposal under Principal Selection Factor 3, which, as stated in the 1998 Act, considers, "The experience and related background of the offeror, including the past performance and expertise of the offeror in providing the same or similar visitor services as those to be provided under the concession contract." As required by the 1998 Act, the NPS did not give Acadia Corporation preference as the incumbent concessioner. The 1998 Act states that a concessioner is only eligible for a preferential right of renewal if it is either an outfitting and guide concessioner or it generates less than \$500,000 in

annual gross receipts. The most recent concession contract with the Acadia Corporation does not meet either of those conditions.

Why was the perspective of a technical advisor from Acadia National Park not considered by the panel during the five-day selection process?

Acadia National Park personnel either provided extensive input into or drafted language for all documents included in the prospectus, with the superintendent of Acadia National Park providing final approval of the complete package before the prospectus was released. The Technical Advisor provided a written summary of operational issues for the prospective concessioner, presented the information in conference calls with the panel before its face-to-face meeting, and participated by phone in another meeting of the full panel in December 2012. As set forth in NPS guidelines, the role of the Technical Advisor is to review proposals as directed by the panel chair and, if requested, provide technical information and advice to the panel (e.g., scope of existing concession operations, environmental regulations, and financial analysis).

How will NPS re-evaluate the selection process to ensure fairness and transparency?

The Northeast Region and Washington Offices took extraordinary efforts to review the panel evaluation process and conclusions due to concerns expressed by personnel at Acadia National Park regarding the selection of a new concessioner. Over the course of the past summer, personnel in the Washington Office Commercial Services Program were asked to thoroughly review the process and the recommended result. The review was conducted to: (1) ensure the process strictly adhered to applicable law, regulation, and policy; (2) review whether the evaluation faithfully reflected what was contained in the proposals; and (3) confirm whether the panel's scoring of the proposals presented an accurate representation of those contents as they relate to the applicable selection factors and in comparison to other proposals received. The review found all results to be strongly supported and resulted in no changes in the recommended rankings or even specific scores. Further, the review found that the panel operated professionally and in a manner consistent with normal NPS commercial service evaluation panel processes. At this time, no new information has arisen which would trigger further review of the process.

We appreciate your suggestion to have the NPS Regional Director visit Acadia National Park and meet with the superintendent and local stakeholders to listen to their concerns and respond to their questions. Since Regional Director Dennis Reidenbach is retiring on January 3, 2014, the NPS plans to appoint a new regional director in early 2014. After that selection is made, we will arrange for them to visit Acadia National Park so they can touch base with the local constituents. In the meantime, if you have any further questions please feel free to reach out to Acting Regional Director Mike Caldwell at 215-597-7059 or via email at mike_caldwell@nps.gov.

Sincerely,

Jonathan Jarvis
Director

*Technical Advisor
Jonathan
Nabst Woods*



Acadia National Park **FAQ**

Frequently Asked Questions Concerning the Selection of Concessioner to Provide Food & Beverage and Retail Services at Acadia National Park

What are the basic facts of the concession contract?

Selected Concessioner:	Dawnland, LLC (a Maine corporation and subsidiary of Ortega National Parks, LLC)
Incumbent Concessioner:	Acadia Corporation
Estimated Annual Gross Receipts:	\$5.8 million
Contract Number:	CC-ACAD001-14
Contract Term:	10 years
Expected Start Date:	March 2014

What services are included in the concession contract?

The contract requires the concessioner to provide food and beverage service at the Jordan Pond House, and retail service at the Jordan Pond House, Cadillac Mountain, and Thunder Hole. The contract also authorizes the rental of facilities at the Jordan Pond House.

What was the process for selecting a concessioner?

The National Park Service (NPS) issues concession contracts pursuant to the National Park Service Concessions Management Improvement Act of 1998 (Title IV of Pub. L. 105-391), and subsequent regulations (36 CFR § 51) and policies. Section 403(1) of the Act states that concession contracts shall be awarded “to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary [of the Interior] through a competitive selection process.” Section 403(5)(A) of the Act specifies the primary factors for selecting the best proposal.

The process began with the preparation of a prospectus by personnel from Acadia National Park and NPS Commercial Services Program, which is responsible for the oversight of commercial visitor services in the national parks authorized under concession contracts, commercial use authorizations, and leases.

The prospectus included an introduction to the park, a description of the business opportunity (including services, facilities, and park management issues), draft concession contract, and appendices (including, but not limited to, the previous concession contract, and the park’s Visitor Study, 2009, and Commercial Services Plan, 2000).

The NPS issued the *Prospectus, A Concession Business Opportunity for Food & Beverage and Retail Services within Acadia National Park, Solicitation #CC-ACAD001-13*, on July 19, 2012, with proposals due November 20, 2012. During the solicitation period, the NPS conducted a site visit for prospective offerors on August 14, 2012 and responded to questions through August 29, 2012.

To review the proposals and recommend the offeror, the NPS Northeast Regional Director convened a panel consisting of eleven NPS personnel with relevant technical and operational expertise from the NPS Washington Office, and national park units and offices across the country. In addition, the Concession Specialist from Acadia National Park served as a Technical Advisor to the panel. The NPS Commercial Services Program reviewed and approved the composition of this panel. The panel performed a comprehensive analysis of the proposals which began soon after the proposals were received. The panel met in person for five days in December 2012, at which time it reviewed received proposals. Dawnland, LLC's proposal received the highest cumulative point score. The panel's recommendation was forwarded to the NPS Director for review and was approved.

Section 403(6) of the National Park Service Concessions Management Improvement Act of 1998 requires the Secretary of the Interior to submit any proposed concession contract with anticipated annual gross receipts in excess of \$5 million to the Congress—specifically the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The NPS cannot award the concession contract until at least 60 days subsequent to the notification of both Congressional committees. The anticipated date of the award is March 2014, but this may be adjusted to accommodate the needs of the NPS and Dawnland, LLC.

How was Acadia National Park personnel involved in the selection process?

Acadia National Park personnel either provided extensive input into or drafted language for all documents included in the prospectus, with the Superintendent of Acadia National Park providing final approval of the complete package before the prospectus was released.

The Superintendent then appointed a Technical Advisor to the evaluation panel to answer park-related questions. The Technical Advisor provided a written summary of operational issues for the prospective concessioner, presented the information in conference calls with the panel before its face-to-face meeting, and participated by phone in another meeting of the full panel in December 2012. As set forth in NPS guidelines, the role of the Technical Advisor is to review proposals as directed by the panel chair and, if requested, provide technical information and advice to the panel (e.g., scope of existing concession operations, environmental regulations, and financial analysis).

What criteria did the NPS use to select the concessioner?

The selection factors (i.e., criteria) were included in the *Prospectus, A Concession Business Opportunity for Food & Beverage and Retail Services within Acadia National Park, Solicitation #CC-ACAD001-13*. The major headings and range of rating points for the selection factors are provided below, and detailed descriptions of each are available in Part A (pages 1-17) of the prospectus.

Principal Selection Factor 1. The responsiveness of the proposal to the objectives, as described in the prospectus, of protecting, conserving, and preserving resources of the park. (0-5 points)

Principal Selection Factor 2. The responsiveness of the proposal to the objectives, as described in the prospectus, of providing necessary and appropriate visitor services at reasonable rates. (0 – 5 points)

Principal Selection Factor 3. The experience and related background of the offeror, including the past performance and expertise of the offeror in providing the same or similar visitor services as those to be provided under the concession contract. (0 – 5 points)

Principal Selection Factor 4. The financial capability of the offeror to carry out its proposal. (0 – 5 points)

Principal Selection Factor 5. The amount of the proposed minimum franchise fee and other forms of financial consideration to the director. (0 – 4 points)

Secondary Selection Factor 1. The quality of the offeror's proposal to conduct its operations in a manner that furthers the protection, conservation, and preservation of the park and other resources through environmental management programs and activities, including, without limitation, energy conservation, waste reduction, and recycling. (0 – 3 points)

Secondary Selection Factor 2. Providing suitable living environments for concessioner personnel. (0 – 2 points)

The NPS assigned scores that reflected the merits of each proposal under the applicable selection factor and in comparison to the other proposals received. The NPS assigned a cumulative score to each proposal based on the assigned score for each selection factor. The proposal with the highest cumulative score was recommended for selection.

Was the Acadia Corporation's experience in providing concession services at Acadia National Park considered in the selection process?

Yes, the panel considered the Acadia Corporation's past performance and expertise as part of the evaluation of its proposal under Principal Selection Factor 3 (language of the question is included above). As required by the National Park Service Concessions Management Improvement Act of 1998, the NPS did not give Acadia Corporation preference as the incumbent concessioner. The 1998 Act states that a concessioner is only eligible for a preferential right of renewal if it is either an outfitting and guide concessioner or it generates less than \$500,000 in annual gross receipts. The most recent concession contract with the Acadia Corporation does not meet either of those conditions.

As stated in the Federal Register (65 FED. REG. 20630) with the Final Rule of 36 CFR § 51,

First, to achieve greater competition, the 1998 Act repealed, except for smaller and outfitter and guide concession contracts, the “preference in renewal” provision of the 1965 Act. The 1965 Act’s preference in renewal provision required NPS to give existing satisfactory concessioners a preference in the renewal of their concession contracts, if the contract was to be continued after its expiration. This preference required NPS to permit existing satisfactory concessioners to meet the better terms and conditions of the best competing proposal for the renewal of its concession contract. Because of this preference, NPS estimated in 1993 that since 1965 over 99.9% of the renewals of NPS concession contracts had been awarded to the existing concessioner. In fact, from 1965 to 1993, only seven NPS concession contracts out of approximately 1900 awarded were not awarded to the incumbent concessioner (where the incumbent sought the contract). True competition simply did not exist.

The legislative history of the 1998 Act states as follows in connection with the repeal of the preference in renewal: Under the 1965 Act, all satisfactory concessioners are entitled to preference in renewal of their concession contracts or permits. However, in light of the current circumstances of units of the National Park System and in recognition of present business conditions, the Committee considers that generally there is now no need to continue to provide a preferential right of renewal to concessioners in order to obtain qualified operators. Accordingly, to foster appropriate competition in the award of National Park Service concession contracts, the preferential right of renewal provided as a statutory right to existing satisfactory concessioners is repealed by the S. 1693 [the Bill that became the 1998 Act]. S. Rep. No. 105–202, at p.31 (1998).

Who are the key NPS contacts?

Dennis Reidenbach, Regional Director, Northeast Region
Sheridan Steele, Superintendent, Acadia National Park
Mike Caldwell, Deputy Regional Director, Chief of Staff, Northeast Region
Gay Vietzke, Deputy Regional Director, Operations, Northeast Region
Jonathan Meade, Chief of Business Services, Northeast Region
Ethan McKinley, Chief of Concessions, Northeast Region
Elizabeth Weston, Concession Specialist, Acadia National Park

What additional information is available on the Internet?

NPS Commercial Services Program: <http://www.concessions.nps.gov>

NPS Concessions Management Improvement Act of 1998 (Pub. L. 105-391):
<http://www.concessions.nps.gov/docs/OMNIBUS1998.pdf>

NPS Concession Contracts Regulations (36 CFR § 51):
<http://www.ecfr.gov/cgi-bin/textidx?SID=a67d621df629f9544513303d3abd5bc7&node=36:1.0.1.1.24&rgn=div5>