

# 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