

7 Concessioners, Lease Holders, Permittees, Partners, and Others

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The purpose of this chapter is to provide information for parks that have concession contracts, leases, permits, agreements, or other instruments¹ where a non-NPS person or entity is assigned federal real property responsibilities or may construct real property on behalf of the NPS. These persons or entities may include other federal agencies, private companies, or partners. Many of these persons or entities provide services such as lodging, retail, and restaurants while also supporting the stewardship of these structures. These persons or entities share with the NPS the responsibility of supporting health, life and safety, and property protection, which includes implementation of DO-58. A fully documented and implemented structural fire prevention program is an effective way to achieve this goal.

This chapter is intended to guide structural fire management representatives at all levels of the NPS on how to apply applicable structural fire management policy to these persons or entities in support of DO-58 and RM-58. This chapter also provides context and information for NPS programs that develop and manage these types of arrangements. These persons or entities play an important role in meeting the goals of a park's structural fire prevention plan. The reader of this chapter should understand that the information provided is intended to meet the structural fire management requirements outlined in RM-58 and does not limit the ability of parks and regions to apply additional requirements as they may deem appropriate.

This chapter references existing policy and codes and explains how parks can apply them to these instruments. When references in this chapter are cited, the reader can refer to those specific sections of RM-58 to find more information.

For the purpose of this chapter, the term “contract” is used to reference all of the types of instruments where a non-NPS person or entity is assigned federal real property responsibilities or may construct real property on behalf of the NPS. The type of instrument used depends on the applicable authority and program that administers them.

The policy compliance process begins by ensuring that the correct personnel are included on the NPS team early on during the planning and development of these contracts.

7.1 Contract Development and Management

7.1.1 Contracts

The NPS awards contracts through several processes and programs. During the planning and development of these contracts, the NPS team outlines the requirements that will be

¹ An instrument is a written legal document that records the formal execution of legally enforceable acts or agreements, and secures their associated legal rights, obligations, and duties.

the responsibility of each of the parties identified in the contract. Many of these contracts undergo a feasibility analysis of the business opportunity. Any structural fire management requirements that may have a financial impact on the operator, such as conducting structural fire management system operation and maintenance, project work (new construction, system upgrades, rehabilitation) that may trigger code compliance, or additional resources or staffing needs, will need to be identified early so that they can be included in the financial analysis of the overall contract.

7.1.2 Consultation with the FCO

The NPS team will need to consult with the FCO to ensure the contract follows all structural fire management codes and standards adopted by the NPS. The FCO can also provide insight to the team regarding the status of structural fire management systems and help identify any potential issues that should be addressed in a contract. As inspections and condition assessments of the facilities are completed, deficiencies identified that could not be corrected under the current contract may need to be included as part of the new contract. The NPS team's consultation with the FCO should also include any review of the contract's maintenance requirements, such as replacing components at the end of their life cycle, reoccurring maintenance, and preventive maintenance. If the expectation is to have the contract holder perform structural fire management requirements or projects for the NPS, it is paramount that the FCO be part of the NPS team.

7.1.3 Structural Fire Management Plan

Often, contracts require the contract holder to prepare a structural fire management plan specific to their operation. The holders develop these plans at the beginning of the contract based on the unique requirements for a specific park or operation and must be approved by the FCO. Every contract needs to reference the FCO and the title of the person responsible for the Structural Fire Management Program at the park, as well as the contact information for the person responsible for overseeing the contract holder's structural fire management plan.

7.2 Reporting, Oversight and Accountability (Compliance)

Each of the instruments that are contemplated within this section, whether it is a concession contract, lease, permit, agreement, or other instrument are all written documents that define the requirements for the contract holder and the NPS. Therefore, any compliance requirements must be based on the underlying document (contract) on which the use or occupancy of the building or structure is based.

7.2.1 Compliance and Accountability

The contract holder's structural fire management plan will need to address how the contract holder will comply with the adopted code and policy requirements for the facilities and services that will be provided. It is critical that these plans identify who is responsible for the contract holder's compliance with code and policy requirements. The approved plan should identify who will be responsible for inspecting and certifying that these requirements have been met.

Enforcement actions for a contract holder should be coordinated with the park division that is responsible for managing the contract. These actions may require a corrective action plan

and follow-up. Some programs may also have an annual rating program to reflect the contract holder's compliance with contract obligations; incorporating the contract's structural fire management requirements into the annual rating program is recommended.

The reporting, oversight, and accountability provisions of this manual shall not be read to require NPS to perform obligations delegated to the contract holder, nor shall NPS's oversight extend to the day-to-day operations of the contract holder.

7.2.2 ITM Responsibility

Any contract with real property assigned should clearly define which party is responsible for the ITM of fire protection and life safety systems. In addition to ITM required by code or regulation, further requirements may be included within the contract concerning maintenance and operations of these systems. The responsible party can vary depending on the type of instrument and the structures or spaces involved. The contract must address structural fire management responsibilities of the contract holder and the NPS. Listed below are some examples of where this information would be specified in these contracts.

- **Concession contracts** – The Maintenance or Operating Plan exhibits to the contract. The contract also specifies that the concessioner must comply with applicable laws and policy, which would include the International Code Council (ICC) family of codes and NFPA standards referenced in the contract, DO-58, and RM-58. The park should conduct a performance review and document the concessioner's compliance with these requirements (e.g., Annual Overall Rating (AOR) and annual inspection reports).
- **Leases** – The Maintenance Plan includes an annual inspection provision. Lessees are required to comply with all applicable laws which would include applicable building and fire code requirements.
- **Partnership agreements** – In many cases, partners are located within NPS-managed facilities and thus the NPS may be responsible for maintaining and inspecting those assigned buildings or spaces within buildings. Responsibilities may vary so verification of actual assignments is encouraged.
- **Permits** – Structural fire management requirements are typically found in the body of the signed permit.

7.2.2.1 Submission of ITM Documentation

Upon completion of any required ITM, the contract holder must provide signed inspection documents to the park structural fire management coordinator, the park commercial services office, or other program official responsible for overseeing the contract holder's activities. Individual parks should provide a timeline to contract holders in their contracts for ITM completion and correction of identified deficiencies.

7.3 Additional Assessments

During the contract there can also be three additional types of assessments that include fire protection and life safety evaluations that aren't required by the NFPA or applicable code. These assessments are used in

preparation for contract development, mid-contract assessment, or planning for specific projects. These include:

- **Comprehensive Condition Assessments**

The Commercial Services Program conducts a condition assessment for concession contracts. The results are used in prospectus development for a new concession contract. Part of the condition assessment includes a life safety and fire assessment overview to identify deficiencies.

- **Project-Specific Fire Protection Assessments**

Project-specific assessments are typically conducted for an overall structure or related structures to specific fire protection systems, or to study potential concerns to look at fire protection status and potential deficiencies and corrective measures.

- **Lease Annual Inspections**

Most leases have an annual inspection that is intended to identify the maintenance, life safety, and fire protection requirements for the upcoming lease year, as well as identify and validate capital improvements or component renewal schedules.

7.4 Contract Holder Participation in NPS Structural Fire Management Programs

Adequate provision of structural fire management services for NPS facilities is ultimately the responsibility of the NPS. Remote NPS parks with limited resources often rely on volunteers to support their structural fire management needs. At some parks, contract holder employees participate as structural fire response personnel and may serve a critical staffing role.

- Programs should discuss staff participation with their park commercial services team and the Office of the Solicitor (SOL) prior to including these requirements in new contracts.
- Since parks with cannot delegate the NPS's ultimate responsibility for ensuring the provision of structural fire management services, the NPS must take steps to ensure that the service levels provided by contract holders with structural fire management requirements in their contracts meet all requirements for training and equipping personnel volunteering to participate. Training requirements are outlined in [Chapter 5, Governance and Administration](#) of this document.
- Parks with non-NPS structural fire management services that do not have contractual requirements with contract holders may extend an invitation to contract holder employees to participate as they would with any individual wishing to volunteer. In these instances, the park should be prepared to bear the cost of training, equipping, and compensating contract holder employees in support of their participation in the program.
- Regardless of whether it is a contractual requirement or an individual volunteering to participate in the park's structural fire management program, all NPS standards, policies, and code requirements for structural fire response personnel must be met.