Elwimberly@cs.com
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To: John Morrall@EOP

cc: akoehler@mountainstateslegal.com, amy.flachbart@mail.house.gov
Subject: Comments Regarding Federal Regulations Including Federal Regulations Affecting S

The following are the comments of Edward L. and Carol J.Wimberly, owners of Lake Roosevelt Vacations, Inc. (LRV) which presently operates the Kettle Falls Marina, in Kettle Falls, Washington and located in the Lake Roosevelt National Recreation Area which is administered by the Department of Interior, National Park Service and operates under contract No. CC-LAR004-96 dated December 22, 1997 and covering the period of May 1, 1997 through April 30, 2007.

The Kettle Falls Marina is a small marina and Houseboat operation with 60 private boat slips and 17 Luxury Houseboats. (<A HREF="www.lakeroosevelt.com"> </A>L<A HREF="www.lakeroosevelt.com">ake Roosevelt Web Site</A>)

History:
LRV was incorporated under the laws of the state of Washington on July 1, 1988 for the purpose of operating the Kettle Falls Marina then under permit with the NPS, the permit expired in 1990 and was extended from year to year until 1997 with the NPS reason for extension, rather than a new contract was the NPS was awaiting new regulations for new contracts.

The new regulations where issued and provided for Possessory interest assets to decline in value 3.3% per year whereby they would be of no value at the end of 30 years. They also provided that personal property would be valued at "book value" at the termination of the contract. (without book value being defined).

In 1997 the NPS invited interested parties to submit offers on the Kettle Falls operation and LRV was awarded the bid but qualified the signing of the contract as being its only choose of survival, having no choose but to enter into the contract. LRV filed suite against the Department of Interior to have the contract restated to comply with the 1998 law and regulations. or in the alternative to comply with the 1965 law which was in effect at the time the contract was signed. This issue is before the United States District Court for the District of Columbia Civil Action NO. 99-2874 (RWR) and LRV and the Wimberlys are being represented by Mountain States Legal Foundation, Denver, CO pro bono.

We would ask that the OMB review the following areas of the contract and the regulations supporting them and view them for fairness to small business contracting with the Federal Government.

The contract provides:

Page 3: Now, THEREFORE, pursuant to the authority contained in the Acts *of* August 25, 1916 (39 Stat. 535: 16 U.S.C. 1, 2-4) and October 9, 1965 (79 Stat. 969: 16 U. S. C. 20 et seq.) and other laws supplemental thereto and amendatory thereof,

Page 18: SEC. 13 COMPENSATION (a) Just compensation: The compensation in this Section shall constitute full and just compensation to the Concessioner from the Secretary for all losses and claims occasioned by the circumstances described below.

(b) Contract expiration or termination where operations are to be continued:
(b) (1) If, for any reason, including CONTRACT expiration or termination as described herein, the Concessioner shall cease to be required by the Secretary to conduct operations hereunder, or substantial part thereof, and, at the time of such event the Secretary intends for substantially the same or similar operations to be continued by a successor, whether a private person, corporation, or an agency of the government: (i) The Concessioner shall sell and transfer to the successor designated by the Secretary its Possessory Interest in Concessioner Improvements and Government Improvements, if any, as defined under this CONTRACT, and all other tangible property of the Concessioner used or held for use in connection with such operations, and

(ii) The Secretary will require such successor to purchase from the Concessioner such Possessory Interest. If any, and such other property, and to pay the Concessioner the fair value thereof.

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(b) (2) The initial fair value of any Possessory Interest in Concessioner Improvements in existence before the effective date of this CONTRACT shall be $367,500. as of the effective date of this CONTRACT. This initial fair value amount shall annually decrease by $12,250. of this amount. In the event of CONTRACT termination or expiration, the Concessioner's right to fair value for such Possessory Interest shall be the amount not yet so decreased. (emphases added) The fair value of any Possessory Interest in Government Improvements in existence before the effective date of this CONTRACT shall be the book value of the improvements as of the last day of the contract under which such Possessory Interest was obtained, subject to further reduction pursuant to the applicable depreciation schedule of such improvements.

Wimberly comments:
If this contract is allowed to stand, the Possessory Interest assets of the Concessioner would be sold to the successor concessioner for $245,000 at the end of the contract. The fair market value would be approximately $487,500. a disadvantage in bidding of $242,500. To the present Concessioner and a $242,500 wind fall for any new bidder.

As is the case in most small businesses the value of the assets (sweat equity) at the end of the contract or when sold is, for the most part, the total gain on the investment as **a** whole.

(b) (3) The fair value of Possessory Interest in Concessioner Improvements and Government Improvements made after the effective date of this CONTRACT shall be, unless calculated in accordance with Section 13 (d) hereof, the original cost of the improvements less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles, provided, however, that in no event shall any such useful life exceed 30 years. In the event that such Possessory Interest is acquired by a successor, the successor will not be permitted to revalue such Possessory Interest, or, alter its depreciation schedule or useful life.

Wimberly comments:
Due to this paragraph of the contract any improvements contemplated are not feasible and where not constructed. The visitors to Lake Roosevelt are the losers.

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(b) (4) The fair value of merchandise and supplies shall be actual cost including transportation.

(b) (5) The fair value of equipment shall be its book value.

Wimberly comments:
This provision would include the Fuel Barge (value $150,000.) floating buildings ($100,000) Houseboats ($2,500,000) and all other equipment used in the operation. The definition of "book value" would be key. If book value is defined as "Blue Book" which is the fair resale value then there is not a problem, but if the NPS would define this as accounting book value then many of the items would have no value, as they have or would be fully depreciated.

The NPS should define "book value" well in advance of the contract expiration so as to afford LRV the opportunity to challenge the definition.

Conclussion:

We would be glad to furnish additional information or meet with administration personal to discuss the gravity of this situation.

We are thankful for an executive administration branch that is willing to hear and consider the problems of small businesses contracting with the Federal Government.

Sincerely,

Edward L and Carol Wimberly, owners of Lake Roosevelt Vacations, Inc.

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