

2023 Big Game Commercial Services Board
Guide Concession Program Workgroup
Summary of Proposal—Version 2.1—DRAFT

HISTORY AND PROCESS

During the December 2022 annual Big Game Commercial Services (BGCSB) board meeting, the board approved formation of a workgroup to examine complaints received by the public and licensees of poor wildlife conservation practices, overcrowding, and overutilization of hunting in some areas of the state. The board chair was appointed to the workgroup and asked to solicit the following representation. The workgroup consists of:

Department of Natural Resources (DNR) Representative:
Christianna Colles, Director; Division of Mining, Land, and Water

Department of Fish and Game (DFG) Representative:
Rick Green, Special Assistant to the Commissioner

Public Citizen:
Ted Spraker

Interior Guide/Outfitter on State Land:
Coke Wallace, Master Guide-Outfitter

Coastal Guide/Outfitter on State Land/BGCSB Representative:
Jason Bunch, Chair, BGCSB; Registered Guide-Outfitter

The BGCSB chair, Jason Bunch, a guide with over 15 years of experience on both federal and state land was chosen to lead the workgroup, which was staffed by the Department of Commerce, Community, and Economic Development (DCCED). State agencies engaging with the workgroup included DNR, DFG, DCCED, and Alaska Wildlife Troopers (AWT).

The workgroup held a series of public meetings January - October 2023, focusing on the concept of creating a guide concession program on state lands. Two in-person public meetings were held to hear from the general public—one in Fairbanks and one in Anchorage. Six Zoom meetings were held specifically to receive comments from the public on individual topics. The workgroup received written comments throughout the ten-month process. This document sets forth the workgroup's recommendation that a general statutory framework be established that provides agency authority to adopt regulations; the workgroup's regulatory vision and intentions are summarized herein but are nonbinding to any agency participants. Establishing standards and details in regulations will provide additional opportunities for public input and allow the program to remain agile as situations change.

The process utilized a review of the 2013 Proposed Guide Concession Program (GCP) Framework Document (ADL 230869) as a starting point. This framework was the core product of DNR's proposed concession program on state land, which included research and legislation

from 2008-2013. Although this substantial effort was never realized, it scrutinized similar issues the workgroup was tasked with evaluating, including:

Agency Responsibilities	Statutory Authorities and Requirements
Applications	Scoring and Ties
Awards	Terms
Fees	Transferability
Implementation	Transporters
Mapping	Types of Concessions
	Vacancies

Generally, public testimony illustrated the complexity of Alaskan lands and wildlife resources, the various agencies who manage them, and the user groups themselves. Public comments tended to fall in one of the following categories:

- Licensed guides in favor of a concession program who have experience in areas that receive a high volume of use or where winter and predator mortality is high.
- Licensed guides not in favor of a concession program with experience in areas that are not congested with user groups and/or are in areas still abundant with game.
- Newly licensed guides in opposition because they fear lost opportunity.
- Licensed guides who are skeptical of the state's ability to successfully manage a concession program.
- Resident sport hunters who generally favor concessions when a comparison is drawn between federal and state land experiences.

PROBLEM STATEMENT

Currently, there is no process by which the commercial use of state land is allocated among commercial big game hunting guides, and there is no limit on the number of DNR Division of Mining, Land and Water authorizations a guide can have on state land or how many, regardless of size, commercial hunting operations will be allowed to operate in one area. This method of management has frustrated wildlife conservation. As a result, DFG and Board of Game are unable to develop allocation schemes that bring the highest benefit to the public. In "problem areas" the status quo continues to contribute to overcrowding and resource overutilization. Several related issues have been identified by members of the guide industry, the BGCSB, and the Board of Game (BOG). Chronic issues include a decreased incentive to practice sound wildlife management, decreased quality of experience for guided clients, conflicts between commercial users and general public (resident hunters, subsistence users, private property owners), lack of land stewardship, and difficulties in enforcing game laws.

Recently, certain areas of the state have reported decreased numbers in sheep, brown bear, caribou, and moose. These reports have led to at least one decision by the BOG to restrict and close guided non-resident hunting opportunity. The cause of these decreased wildlife populations are complex but generally result from a combination of high winter mortality,

predation, and increasing habit degradation from climate change. Hunting opportunity must be viably reduced when population's decline to ensure sustainability.

A review of these issues and a recommendation on how to proceed with permitting of guided hunting is necessary to assist the BOG, DFG, and DNR with wildlife conservation/utilization and land stewardship. This recommendation has the goal of supporting sustainable small business opportunity for big game commercial services, increase quality hunting experience for both residents and non-residents and assist AWT in enforcing game laws.

OVERVIEW OF CONCESSION IMPLEMENTATION PROCESS

- STEP ONE: A BOG proposal is generated by any interested person to implement a concession within specified area. BOG alerts related agencies to prepare to comment on the proposal at that meeting.
- STEP TWO: BOG reviews proposal with ADFG, BGCSB, DNR, and public. If supported, a recommendation is sent to Lead Agency for implementation within a specified area. Allocation may be established.
- STEP THREE: Concession Advisory committee reviews recommendation and establishes criteria, such as number of unlimited guide outfitters, limited guide outfitters, GUA or concession boundaries, potential number of clients for species, etc.
- STEP FOUR: Lead Agency offers concession applications and completes random draw for limited authorizations.

IMPLEMENTATION

The workgroup generally accepted the 2013 Framework proposed by Lead Agency. This document will explain any departures from that proposal.

A concession program for big game commercial services will require partnerships among several state agencies, each with specific responsibilities within the program to address elements of wildlife conservation, land management, and regulation of professional guiding services.

Authorization of a Concession Program

A concession program will serve as a tool for the Board of Game, whose primary responsibility is to conserve and develop Alaska's wildlife resources, making allocation decisions related to wildlife.

Proposals to enact state land concessions within a GMU will be brought before the BOG during their regionally scheduled meetings when criteria such as wildlife conservation, social conflicts creating reduced opportunity, or negative impacts to game law enforcement are suspected. The proposed area will be within the region scheduled and be a portion of Game Management Unit (GMU), a Game Management Sub-Unit or Guide Use Area (GUA). The BOG will consult with

relevant state agencies and the public to ascertain the viability of a concession implementation proposal. During these meetings:

- BGCSB administrator will provide licensing, guide and transporter use data, mapping information and the board's recommendation to support, oppose or be neutral.
- Lead Agency permitting officer will provide land use data.
- DFG staff will be prepared to provide wildlife information, resident, non-resident, guided, unguided and transporter use information.
- BOG will take public testimony on the proposal.

Once an area is considered appropriate for concession through the BOG public process, the BOG will recommend Lead Agency implement the concession program in the proposed or affected area.

Management of the Concession Program

The workgroup did not make a recommendation of which agency should be granted authority to implement the concession program. As the state's land manager, DNR has the expertise to provide land use authority for a concession in the form of a lease specific to big game commercial services providers. The workgroup's vision is that concessions will not simply be permits and will convey some level of interest in the land, so the workgroup discussed whether DNR would be the most appropriate Lead Agency. As the entity with oversight of the activities of guide-outfitters, the workgroup explored whether the Big Game Commercial Services Board would be appropriate. However, there were concerns about the lack of land management expertise within DCCED and the inherent potential ethical conflicts with a board of market participants issuing permissions that would exclude others from participating while potentially enriching its membership. The workgroup did not discuss whether DFG should be considered as the Lead Agency.

Once the Lead Agency is established, an advisory board will be created in statute to assist Lead Agency with identifying and evaluating criteria specific to the area and to ensure all effected state agencies and user groups have representation. The advisory board will be appointed and managed by Lead Agency and will change as the concession areas are created or decommissioned. Examples of members may include the appropriate area biologist from ADFG, permitting officer from DNR, and representatives from BOG and BGCSB and/or big game guide-outfitter licensees who are not participating in the concession program. The responsibility of the advisory committee is to provide recommendations for establishing program criteria such as joint use versus sole use, numbers of species available, mapping and boundary adjustments, etc.

Lead Agency will need statutory authority, funding, and resources to create an Office of Guide Concessions. Initially, this may be an ad-hoc Lead Agency staff group until total workload to administer the program is better understood. BOG, DFG, BGCSB, and DNR also may need additional statutory authority to carry out their partnership roles as outlined below. Additionally, AWT, BGCSB, and the Lead Agency will likely need additional authority to enforce their roles within the new concession program. The workgroup highly recommends the minimum necessary

authority be granted in statute, with the program details established in regulations. This will allow Lead Agency to maintain a flexible public process that can change transparently with the needs of the BOG and the industry.

PROGRAM DESIGN

Competitive Offerings will be publicly noticed as a “full concession” solicitation for applications by Lead Agency after recommended by BOG and details of the concession have been suggested by the advisory committee. The application will be a scorable questionnaire to find the most capable candidate for the offering, incorporating as little subjectivity as possible. The more subjective the application, the more difficult to articulate a clear “best candidate.” The application will be simple and streamlined, including parameters for each answer that requires a narrative. The highest scoring application(s) will be awarded. A “limited concession” will be available via random draw as noted below.

The number of applications a guide can submit for a competitive full concession will not be limited. Concession implementation will be kept to smaller areas of the state such as GMU sub units or small clusters of GUAs that meet criteria outlined for concession implementation. To begin, Lead Agency will use caution, only instituting one area at a time to prevent an application backlog and also allow for critical components of the program to be adjusted before moving forward with the next. This “small bite” approach will be responsive to wildlife dynamics and keep the administrative burden and cost at a minimum, while allowing application opportunities for every qualified guide.

The number of full concessions a guide can be awarded will be limited to three Guide Use Areas with only one state land concession within any one Guide Use Area. This approach ensures opportunity for new entry and removes the potential for monopoly of use within any single GUA.

Mapping was completed successfully in the 2013 GCP Framework Document. These maps and boundaries will be utilized by the advisory committee as a starting point. The division of some larger GUAs into multiple concession areas continues to be warranted. Of note, the BGCSB is responsible to establish guide use area boundary changes through regulation.

Types of fees will be established in regulation and adjusted as needed to cover program costs. The workgroup envisions that Lead Agency will need a modest amount of start-up funding and receipt authority to cover ongoing program expenses. Per-client fees will be determined through relevant hunt record data provided by DCCED, sharing of which will need to be authorized in statute. The fee structure per client is generally accepted and provides for equity among the various sizes of businesses.

The workgroup discussed the following guidelines for fees, with final determination through the regulations process:

- Annual per-client fee:
 - These fees will only apply to clients that are guided or outfitted. If there is legal space to avoid charging a fee for Alaska resident clients, it will be considered.
 - After receiving recommendations from the advisory board and the public, fees will be structured using one of the following methods:
 - Flat annual fee per concession:
This fee may need to be several thousand dollars; however, the simplicity of recordkeeping may benefit both guides and departments.
 - Linked to the type of animal pursued:
Example: The fee is \$500 per client for those species that require a guide for non-resident hunters (brown bear, Dall sheep, mountain goat) and \$250 per client for all other species.
- Existing required DNR permit structures remain in place, so those fees will be assessed.

Types and duration of concessions are recommended in accordance with the 2013 GCP Framework Document, with changes illustrated below:

The full concession is the primary type of concession that will be offered:

- Full Concessions will be offered through the competitive process.
- Up to two full concessions per area to be allowed by the advisory board.
- These permits will not limit the number of assistant guides, however, they will be limited to the number of clients and species annotated on their permit consistent with the operations plan that must be submitted with the application.
- DFG and/or BOG will be consulted and provide recommendations during the scoring process concerning number of each species identified and/or establish an allocation for each species where conservation concerns exist during the proposal process.
- DFG will have the opportunity to adjust the allotment of each species during the award process and annually as required to ensure successful wildlife conservation is being achieved.

The limited concession is the second type of concession that will be offered, providing opportunities for smaller business and new entry. This type of concession will not be attractive to more established guides with larger businesses, who will compete for full concessions.

- Limited Concessions will be awarded through a random draw application.
- The general terms and the duration of the concession permits are the same as those listed above for full concession permits.
- Limited concession permittees will only be allowed a smaller number of clients and/or species than a full concession.

- All limits will be recommended by the advisory board, which will have the opportunity to adjust the allotment of each species during the award process and annually as required to ensure successful wildlife conservation is being achieved.

Duration of concession will be for 10 years.

- The workgroup does not see the need to revisit concession permits at the 5-year mark established in the 2013 GCP Framework Document proposal.
- Permit stipulations will be established such that unlawful or undesirable activity can result in loss of the permit at any time.
- Removing the 5-year evaluation provides for a more streamlined effort while providing for maximum flexibility for management.

Vacancies will be filled using a process defined in regulations that accommodates various circumstances.

Transferability of a concession lease within the allowable parameters of the Alaska Constitution is crucial to the success of a concession program.

- This program will allow transfer of the remaining balance of a concession permit to a qualified guide with an approved operating plan.
- The main benefit of transferability to Alaska is to encourage guide business owners to operate high quality, modern businesses that are competitive with other landowner guide operations. In turn, these investments ensure a focus on wildlife conservation practices with a long-term goal of sustainability, allowing a guide to sell his or her business assets and transfer the remaining term of the land use concession.
- Secondly, it allows for new entry into the concession program by providing a means for guides to take over a business they may have mentored under for years or to step into the role of business owner for the first time.
- Elements for Lead Agency and the advisory board to consider when creating regulations for the program, including but not limited to:
 - Provisions for emergency transfers if a guide is hurt, sick, or incapacitated
 - How requests for transfers are made and approved
 - Authorization for natural persons instead of corporations
 - The criminal history of the transferee, especially relating to fish and wildlife violations
 - Limits of awards after transfer of a concession to another guide
 - Demonstration of the ability to meet standards and operations outlined in the competitive application upon which the existing permit was based
 - Repercussions for failure to comply with concession terms and conditions
 - Transfer of permit privileges issued under this paragraph in the case of death or disability of the permittee, especially to a spouse or heir

Transporters will not be included in the hunting guide concession program. Transporters provide valuable services to resident sport hunting enthusiasts. Limiting resident hunting

opportunity is not in the purview of this workgroup nor its agenda. Furthermore, it is generally believed that with a reduction in the number of guides providing services in an area, air transportation services could begin to decrease naturally. The workgroup recommends DNR, BGCSB, and DFG continue to collect data regarding transporter services. When a concession area is instituted, this data will be critical in deciding what tools if any will be required for further wildlife management and land stewardship.

Enforcement will be responsibility of all agencies involved within their statutory authority. The Alaska Wildlife Troopers (AWT) are in the field during hunting seasons conducting in-person contacts. They understand the issues brought to the workgroup and believe concessions will be a tool that will benefit their ability to enforce wildlife regulations. AWT initial recommendations are that Lead Agency will be granted authority to enforce violations and conditions of a concession permit which will empower AWT to ticket violators for same. Lead Agency, AWT, and BGCSB will likely need additional statutory authority for enforcing concessions and continue to work closely together to ensure the concession operations are being conducted in Alaska's best interests.

Increased compliance communication between Lead Agency and the BGCSB is recommended. Any guide/outfitter who provides services without land use authority is in violation of AS 08.54.720(4). A land use permit specific to guide-outfitter operations may benefit this process, especially in areas where a concession program has not been implemented.

The next step is for the Administration to discuss which agency might be best suited to lead this effort and determine appropriate next steps in the legislative process.

The Guide Concession Program Workgroup wishes to thank the guide-outfitters, resident hunters, agency staff, and members of the public who participated in this effort. Materials related to the workgroup are published [on the BGCSB website](#).