

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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SUMMARY OF: A Sunset Review of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board, August 16, 2007.

### PURPOSE OF THE REPORT

In accordance with Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Big Game Commercial Services Board (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, AS 08.03.010(c)(22) states that the board will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations. Our report objectives were as follows:

1. To determine whether there is a public need for the board and if its existence should be extended.
2. To review the board's major functions of licensing and investigations for effectiveness in meeting public need and for efficiency of operation.

### REPORT CONCLUSIONS

In our opinion, the termination date of the board should be extended. The board has demonstrated a need for its continued existence for regulating and licensing qualified, registered guide-outfitters and transporters which benefits the public's safety and welfare as well as protection of the state's wildlife resources. The board has also successfully developed and adopted regulatory changes to improve the big game commercial services industry in Alaska.

As indicated in the Analysis of Public Need section of this report, the board has met the various statutory sunset criteria, generally, in an effective and efficient manner; exceptions are discussed in the Findings and Recommendations section. In our opinion, the board serves an important public purpose.

Based on the operational deficiencies identified and the limited time the board has functioned since reinstatement, we recommend the board continue in statute and its termination date be extended for four years until June 30, 2012.

#### FINDINGS AND RECOMMENDATIONS

1. The director of the Division of Corporations, Business, and Professional Licensing (DCBPL) should ensure division staff adheres to statute, regulations, and policy and procedures for efficient and effective support of the board's day-to-day operations.
2. The division's director should ensure case management procedures are adhered to by staff to accurately reflect case status on the case management system in support of the board's operations.
3. The board and the division should review licensing fees and regulatory costs, and increase fees to cover the annual operating costs to eliminate the anticipated deficit. At the end of FY 07, the board had an estimated operating deficit of \$52,000.
4. The board should make appropriate changes to regulations which require proof of current first aid certification for all guide-outfitters, under board purview, for both initial and renewed licenses.
5. The board should cease the electronic accumulation of information gathered from hunt records and transporter reports. Staff resources were ill-spent recording historic licensee reports into an electronic database. The cost versus the benefit of capturing information from reports is questionable.

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August 30, 2007

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

### DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT BIG GAME COMMERCIAL SERVICES BOARD SUNSET REVIEW

August 16, 2007

Audit Control Number

08-20052-07

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, AS 08.03.010(c)(22) states that the Big Game Commercial Services Board (board) will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations.

In our opinion, the termination date for the board should be extended. The licensing of qualified guide-outfitters and transporters benefits the public's safety and welfare. We recommend the legislature extend the termination date of the board to June 30, 2012.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing this report are discussed in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA  
Legislative Auditor



# TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology .....	1
Organization and Function .....	3
Report Conclusions.....	7
Findings and Recommendations.....	9
Analysis of Public Need .....	15
Agency Responses	
Department of Commerce, Community, and Economic Development .....	21



# OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Big Game Commercial Services Board (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. Currently, AS 08.03.010(c)(22) states that the board will terminate on June 30, 2008 and will have one year from that date to conclude its administrative operations.

## Objectives

Our specific audit objectives were:

1. To determine if the termination date of the board should be extended;
2. To determine if the board is operating in the public interest; and,
3. To determine if the board has exercised appropriate regulatory oversight of licensed guide-outfitters and transporters.

## Scope:

Our audit reviews the operations and activities of the board for the period July 26, 2005 through June 30, 2007. The assessment of the board is based on criteria set out in AS 44.66.050(c).

## Methodology:

To accomplish the audit objectives, we:

- Reviewed applicable federal regulations and state guide-outfitter/transporter statutes and regulations;
- Read annual reports and minutes of board meetings related to, or issued by, the board;
- Examined licensing files including hunt records, transporter reports and hunt contracts;
- Examined complaint and investigation files for guide-outfitter and transporters;
- Reviewed various state and federal websites containing hunt and land use information;
- Read departmental correspondence files relating to board and licensee activities;
- Reviewed professional hunter website information;
- Analyzed board revenue and expenditure from FY 06 through FY 07;
- Reviewed legal information from the Department of Law and the courts;

- Reviewed the 2003 Special Audit No. 08-30025-03, *Department of Community and Economic Development, Division of Occupational Licensing, Guides and Transporters (October 16, 2003)*.

We also compared 1995 provisions of the former Big Game Commercial Services Board's statute and regulations with those since the board reinstatement.

We interviewed:

- Members of the Alaska Professional Hunters Association;
- Members of the Board of Big Game Commercial Services;
- Staff of the Division of Corporations, Business, and Professional Licensing within the Department of Commerce, Community, and Economic Development;
- Staff of the Division of Mining, Land, and Water within the Department of Natural Resources
- Staff of the Division of Fish and Wildlife Protection within the Department of Public Safety
- Staff at the Department of Fish and Game
- Staff at the Natural Resources Civil Division, Department of Law who regularly assist the board with statute and regulatory issues.
- Staff of the U.S. Forest Service, U.S Fish and Wildlife Service, and U.S. Department of the Interior's Bureau of Land Management

Additionally, during the course of the review we were contacted directly by interested members of the public conveying their concerns and issues over board proceedings and matters.



# ORGANIZATION AND FUNCTION

The Big Game Commercial Services Board (board) was reestablished by Chapter 84, Section 3, SLA 2005 and became effective July 26, 2005. The board is responsible for licensing and regulating activities of big game guides and transporters. Guiding involves providing, services, equipment or facilities to a big game hunter in the field. Transporting, which can be provided both by a guide or separately licensed transporter means delivery of big game hunters, their equipment or harvested animals to, from or in the field. Alaska Statutes require nonresident U.S. citizens and nonresident foreign nationals to be accompanied by a licensed guide when hunting big game species in Alaska.<sup>1</sup>

Previously, the board was terminated effective June 30, 1995 and its regulatory responsibility was transferred to the Division of Corporations, Business, and Professional Licensing (the division or DCBPL) within the Department of Commerce, Community, and Economic Development (DCCED). DCBPL staff performed the oversight, licensing, and investigations of guide-outfitters' and transporters' licensees from July 1995 through July 2005. Upon reinstatement the regulatory responsibilities were transferred back to the board.

## Membership on the Board

The board is composed of nine members. Membership consists of two public members, two currently licensed registered guide-outfitters, two licensed transporters, one member of the Board of Game, and two private landholders.

The public members cannot be engaged in the guiding or transporting profession, or have a direct financial interest in the piloting profession. All members must be residents of Alaska.

## Duties of the Board

1. Prepare and grade a qualification examination for registered guide-outfitter licenses that require demonstration that the applicant is generally qualified to provide guided and outfitted hunts and, in particular, possess knowledge of fishing, hunting, and guiding laws and regulations.

<sup>1</sup> AS 16.05.407 and .408

### **Exhibit 1**

#### **Big Game Commercial Services Board Members As of June 30, 2007**

#### Licensed Registered Guide-Outfitter Members

Paul Johnson – Chairman  
Richard Roher

#### Transporter Members

Colin Brown  
Leif Wilson

#### Private Landholder Members

Raymond Stoney  
*Vacant*

#### Public Members

Bob Mumford  
Betty Jo Schmitz

#### Member of the Board of Game

Ted Spraker

2. Prepare and grade a certification examination for each game management unit (GMU) in which the registered guide-outfitter intends to provide big game hunting services. The exam requires demonstration by the guide-outfitter that they possess knowledge of the terrain, transportation problems, game, and other characteristics of the GMU.
3. Provide for administration of examinations for registered guide-outfitters at least twice a year.
4. Authorize the issuance of registered guide-outfitter, master guide-outfitter, class-A assistant guide, assistant guide, and transporter licenses. Prior to issuance or renewal the applicant of any class of guide or transporter license must certify by signed document the right to obtain, or exercise the privileges granted by a hunting, guiding, outfitting, or transportation services license is not revoked or suspended in this state, another state, or Canada.
5. Impose appropriate disciplinary sanctions on a licensee.
6. Regularly disseminate information regarding examinations and other qualifications for all classes of guide licenses to residents of the rural areas of the State.
7. Adopting procedural and substantive regulations.
8. Meet at least twice annually.

Division of Corporations, Business, and Professional Licensing (DCBPL or division)

DCBPL provides administrative assistance to the board. Administrative assistance includes budgetary services/functions such as collecting fees, maintaining files, receiving/issuing application forms; publishing notice of examinations and meetings; and compiling/maintaining a current register of licensees. On its own initiative, the division may conduct an investigation if it appears an individual has engaged, or is about to engage, in a practice over which the division has authority. DCBPL can issue an order that the individual stop the practice, bring an action in Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and issue subpoenas for the attendance of witnesses and records.

Licensing examiners at DCBPL are assigned the function of administering and grading the written portion of the registered guide-outfitter and game management unit examinations, issuing initial and renewal licenses for all types of guide-outfitters and transporters, reviewing and data entry of information contained on hunt records and transporter activity reports from guide-outfitter and transporter licensees, handling requests for information, issuing and receiving correspondence over licensees, and refer complaints received to the investigation section within DCBPL.

An investigator at DCBPL is assigned to conduct investigations of complaints on behalf of the board which are received from clients of a guide-outfitter or transporter, the public, other guide-outfitters and transporters, licensing examiners, and other state or federal agencies. A complaint which is clearly a potential criminal violation is referred by the investigator to an appropriate law enforcement agency.

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## **REPORT CONCLUSIONS**

Under AS 08.03.010(22), the Big Game Commercial Services Board (board) will terminate on June 30, 2008. If the legislature does not take action of extending the board's termination date, then AS 08.03.020 provides the board one year in which to conclude its administrative operations.

The regulation and licensing of qualified, registered guide-outfitters and transporters benefits the public's safety and welfare as well as protection of the state's wildlife resources. The board provides reasonable assurance that the individuals licensed to guide and or outfit hunts, as well as transportation of hunters to and from hunt locations in Alaska, are qualified to do so. The board has also successfully developed and adopted regulatory changes to improve the big game commercial services industry in Alaska.

As indicated in the Analysis of Public Need section of this report, the board has met the various statutory sunset criteria, generally, in an effective and efficient manner; exceptions are discussed in the Findings and Recommendations section. In our opinion, the board serves an important public purpose. Based on the operational deficiencies identified and the limited time the board has functioned since reinstatement, we recommend the board continue in statute and its termination date be extended for four years until June 30, 2012.

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# FINDINGS AND RECOMMENDATIONS

## Recommendation No. 1

The director of the Division of Corporations, Business, and Professional Licensing should ensure procedures are adhered to by division staff for the efficient and effective support of the Big Game Commercial Services Board's day-to-day operations.

Several processes and procedures, required of the Division of Corporations, Business, and Professional Licensing (DCBPL or division) staff to provide adequate support of the Big Game Commercial Services Board (board), were identified as untimely and inaccurate. Issues identified were:

1. Licensee files missing required documentation. One of eight newly-licensed registered guide-outfitter, and one of six assistant guide-outfitter, reviewed license renewals did not have all documentation required for licensure. The registered guide's file was missing both scores showing successful completion of the practical exam and proof of financial responsibility.<sup>2</sup> The assistant guide's file was missing proof of first aid.<sup>3</sup>

Without required documentation to prove compliance with eligibility requirements, it is unclear whether requirements were met. The procedure to ensure all required licensing support documentation be retained in the licensee file was not followed.

2. Public notice not issued for exam. Of the four examinations held from October 2005 through March 2007, one examination<sup>4</sup> was not publicly noticed as required by AS 08.01.050(a)(6). Failure to adequately publish dates of examinations means applicants who would otherwise take the exam, were not aware it was scheduled. The procedure, to ensure public notice is adequately posted by divisional staff, was not followed.
3. Proposed regulations issued by the board were not publicly noticed in a timely manner. By mis-prioritizing work efforts, division staff failed to publicly notice the draft regulations in a timely manner prior to an upcoming board meeting. The result was insufficient time for public comments to be received. In the adoption of new regulations, the board must allow an adequate period for public comments.<sup>5</sup> Consequently, the board incurred additional and unnecessary costs in order to adopt the regulatory changes at a later meeting.

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<sup>2</sup> AS 08.54.610(a)(3) and (4) and 12 AAC 75.220(b)(2)(A) and (B)

<sup>3</sup> 12 AAC 75.130(3)

<sup>4</sup> The October 28, 2005 exam

<sup>5</sup> AS 44.62.190(a)

4. Meeting minutes not completed timely, accurately, or consistently posted on the board's website.

The board delegates minutes' preparation to the division. Issues with the division's minutes from board meetings include:

- Three of eight board meetings did not have minutes drafted within the statutory 20 days following the meeting.<sup>6</sup> Further, one of the three was not completed until six months later.
- Two of eight board meetings, reviewed, found discrepancies between the documented minutes when compared to the taped recordings.
- Four of eight board meeting minutes were not posted on the division's website.

Due to the division staff's mis-prioritizing work efforts and lack of attention to detail, interested parties using board minutes' information may take action or make decisions they, otherwise, would not have.

Although each individual item by itself may not significantly affect board operations, taken as a whole they hinder the board's ability to effectively and efficiently function in the public's interest. Many items identified were due, in part, to a lack of follow-through and adherence to regulatory requirements and division-established policy and procedures by staff. Accordingly, we recommend the DCBPL director ensure adherence to statute, regulations, and policy and procedures by the division staff responsible for providing support functions in the board's day-to-day operations.

Recommendation No. 2

The division's director should ensure staff adheres to investigative case management procedures.

Lack of monitoring the status of investigations has hampered the effectiveness of board operations. The issues identified are:

1. Open status classification on the case management system is not accurate. A review of status reports found four out of eight complaints, and three of ten investigations, were not closed in a timely manner on the division's case management information system (system). The complaints or investigations were either resolved or referred to a law enforcement agency, but remained open on the system.

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<sup>6</sup> AS 08.01.070(7)



Several reasons were identified for complaints and investigations remaining open on the system. In part, it was due to a combination of extended vacancy of the board-assigned investigator and limited available resources to adequately perform monitoring of case statuses for accuracy. Further, the system does not provide adequate case status notification to alert staff that cases remain open for protracted periods of time.

2. Closed status classification on the system is not accurate. Review of complaints found one of 18 in a closed status which should have been reported as an active investigation. The complaint was classified as closed for over seven months. When the investigative staff was notified of this error, they reopened the complaint as an investigation immediately.

The process to change a complaint to an investigation on the system is manual. As such, the followed procedure must be performed thoroughly and completely to prevent premature closure of an investigation. The possibility exists that licensees reported to the investigative section, who might have otherwise been found in violation of either a civil or criminal action, are not adequately and appropriately investigated. This situation could potentially place public safety and wildlife resources at risk.

The responsibility to investigate and monitor occupational licensing complaints is statutorily the duty of the Department of Commerce, Community, and Economic Development, as set out in AS 08.01.050(a)(19). Without available accurate case management system status reports, investigative staff and the board do not have reliable information to effectively or efficiently manage limited available investigative resources.

Accordingly, we recommend the division's director ensure adherence over procedures to accurately reflect case status on the case management system to support board operations.

### Recommendation No. 3

The division, in conjunction with the board, should increase licensing fees to mitigate the board's current and projected operating deficits.

At the end of FY 07, the board had an estimated operating deficit of \$52,000. Based on expenditures and revenues to-date, we project that it is likely the board will be in a deficit again at the end of FY 08. Alaska Statute 08.01.065(c) requires fees for an occupation be set to approximate the regulatory costs related to that occupation.

Contributing factors to the deficit include increased expenditures for administrative, investigative, and contracted support staff, as well as increased board travel costs. Without increases to licensing fees, a deficit will remain and it is unlikely the board will cover annual operating costs in FY 08 or FY 09.

We recommend that the division and the board review licensing fees and regulatory costs, increasing fees to cover the annual operating costs to eliminate the deficit.

#### Recommendation No. 4

The board should consider modifying regulatory first aid requirements to provide consistency between guide-outfitter licensee types.

Registered guide-outfitters are not required to maintain a valid first aid card. Yet assistant guide-outfitter licensee types are required to possess a current first aid card issued by the Red Cross or similar organization for licensure. Public safety is placed at risk by not requiring all guide-outfitter licensee types to provide proof of current first aid training at the time of initial and renewal of licenses.

It is unclear why the first aid requirements are inconsistent among guide licensee types. However, registered guide-outfitters must have practical field experience in first aid.<sup>7</sup> Due to the nature of the big game commercial services industry and remoteness of activity, it is imperative that all the board's guide licensees are skilled and trained in current first aid procedures to ensure public safety.

We recommend the board make appropriate changes to regulations which require proof of current first aid certification for all guide-outfitters, under board purview, for both initial and renewed licenses.

#### Recommendation No. 5

The board should cease the electronic accumulation of information gathered from hunt records and transporter reports.

Staff resources were ill-spent recording historic licensee reports into an electronic database. The board did not identify specific use of the data or the amount of time and resources to allot for the task prior to assigning it to the division. The consensus, of anticipated users (state and federal agencies, plus the board, itself), of this information was only current activity<sup>8</sup> would be useful, with some preferring imaged copies over data reports.

It is the responsibility of the department to collect and maintain<sup>9</sup> the required records and reports from licensees, but statute is silent on what format the information should be maintained. In addition, compilation of data from the reports *may* be included in

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<sup>7</sup> AS 08.54.610(a)(2)

<sup>8</sup> Current activity was identified as the previous 12 months.

<sup>9</sup> AS 08.54.760(a)

departmental reports, but is not required.<sup>10</sup> Avoiding waste of resources is a fundamental, good business practice. Lacking a clear understanding of both the use of information and resources required has interfered with the division accomplishing critical board functions and contributed to the financial deficit which will have to be paid by all licensees.

We recommend the board cease electronic data accumulation of licensee reports until the following are identified: (1) concise and clear use of the information, (2) specific stakeholders, (3) timeframe to reasonably complete the work, and (4) costs associated with the data collection prior to directing division staff to proceed.

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<sup>10</sup> AS 08.54.760(b)

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# ANALYSIS OF PUBLIC NEED

## Limited Analysis

The following analyses of Big Game Commercial Services Board (board) activities relate to the public-need factors defined in the sunset law, AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas covered within the scope of our review.

***Determine the extent to which the board, commission, or program has operated in the public interest.***

The regulation and licensing of qualified registered guide-outfitters and transporters benefits the public's safety and welfare as well as protects the state's wildlife resources. The board provides reasonable assurance that the individuals licensed to guide and/or outfit hunts, as well as the transporting of hunters, are qualified to do so.

The board has issued licenses in a uniform manner, held required meetings, and administered examinations in accordance with statutory requirements. During our review period, the board expanded professional ethics regulations for both guides and transporters, as well as enhanced the registered guide-outfitter exam. In addition, the board implemented regulations detailing client contract requirements for registered guide-outfitter. As of May 31, 2007, the board had 2,464 licensed guide-outfitters and transporters.

***Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.***

## Board Finances

State law requires *that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*<sup>11</sup> Division of Corporations, Business, and Professional Licensing (DCBPL or division), with input from the board, sets fees based on a two-year cycle, with the majority of the revenue collected in even-numbered fiscal years. With the reestablishment of the board, the division understands the licensing rate fees will need to be reassessed to cover any increase in operational costs. The exhibit, below, summarizes the board's operating costs and revenues for the period FY 04 through FY 07.

Exhibit 2, on the following page, identifies a cumulative deficit at the end of FY 07. Increases for administrative and investigative services from DCBPL staff, contract services for new regulatory development, and increased travel costs contributed to the deficit. Given

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<sup>11</sup> AS 08.01.065(c)

the increased costs for general board operations, it is likely the board will continue to incur a revenue deficit during the next licensing period. DCBPL and the board should increase licensing fees. (See Recommendation No 3.)

**Exhibit 2**

<b>Big Game Commercial Services Board</b>				
<b>Schedule of License Revenue and Expenditures</b>				
<b>As of June 30, 2007</b>				
<b>(Unaudited)</b>				
	(Prior to Board Reinstatement)		(After Board Reinstatement)	
	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 07</b>
Total Revenues	<u>\$ 325,600</u>	<u>\$ 88,000</u>	<u>\$ 333,738</u>	<u>\$ 68,879</u>
Direct Expenditures				
Personal Services	65,200	54,000	113,541	170,896
Travel	900	500	16,310	33,159
Contractual	11,400	24,600	35,724	64,713
Supplies	<u>100</u>	<u>500</u>	<u>553</u>	<u>2,455</u>
Total Direct Expenditures	<u>77,600</u>	<u>79,600</u>	<u>166,128</u>	<u>271,223</u>
Administrative Indirect Costs	<u>128,400</u>	<u>112,700</u>	<u>114,907</u>	<u>127,976</u>
Total Expenditures	<u>206,000</u>	<u>192,300</u>	<u>281,035</u>	<u>399,199</u>
Annual Revenues over (under)				
Expenditures	<u>119,600</u>	<u>(104,300)</u>	<u>52,703</u>	<u>(330,320)</u>
Beginning Cumulative Surplus (Deficit)	210,300	329,900	225,600	278,303
Ending Cumulative Surplus (Deficit)	<u>\$ 329,900</u>	<u>\$ 225,600</u>	<u>\$ 278,303</u>	<u>\$ (52,017)</u>

Division Support Activities

The divisional support activities of the board, as set out in statute,<sup>12</sup> have not been effective or efficient for the board’s needs since reinstatement. Several activities are identified as needing improvement and resulted in hampering the general operations of the board. (See Recommendation Nos. 1 and 2.)

Board Directive Over Hunt Records and Transporter Reports

The board issued a directive for the division to begin data entry of all information contained on required hunt records and transporter reports which had not been previously entered into the division’s database. The benefit, over cost, is questionable and results in an inefficient use of available resources. (See Recommendation No 5.)

<sup>12</sup> AS 08.01.050 and AS 08.01.087

***Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.***

During the past two years, the board has supported proposed statutory changes and has recommended and adopted regulations of general benefit to the public interest in areas such as professional ethics, client-guide contract, and licensing requirements to ensure guide and transporter standards are clearly defined. In addition, examination requirements of candidates for registered guide-outfitter were improved to address the current needs of the industry by ensuring new licensees have demonstrated practical knowledge covering several specific abilities.

Other regulations were added requiring documented proof of various items for licensure such as authorization from landowners, in advance, of guiding in an area and criminal background reports. However, regulations over first aid requirements are inconsistent. (See Recommendation No 4.)

***Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.***

The board has published notices of examinations, meetings, and prospective regulation changes. Public notice of meetings and exams are made in newspapers of general circulation and also in the State of Alaska's *Online Public Notice* website. Additionally, a period of time for public comment was available at each board meeting.

DCBPL maintains a list of individuals or organizations who are interested in the regulations of that occupation. The division sends a *Notice of Proposed Regulations* automatically to the parties on the occupation listing, each time there is a proposed change in the occupation's regulations.

However, during the period under review, one exam was not publicly noticed by the division. (See Recommendation No 1.)

***Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.***

Each board meeting's agenda allows time for public comment. The public has been encouraged to use these public comment periods to express concerns, obtain information from the board, and participate in the regulatory process. Interested parties may attend the meetings in person or by teleconference. In addition, the board has established multiple subcommittees in which the public has had substantial input over various proposed regulatory developments.

***Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.***

No complaints were filed with the Office of the Ombudsman or the Office of Victims Rights in recent years regarding the operations of the board, specifically, or guide-outfitters and transporters in general. The board revoked one registered guide-outfitter license in FY 07. The revocation was the result of the guide's actions.

Complaints and concerns regarding decisions and activities of the board, as well as complaints about the performance of licensed guide-outfitters and transporters, were generally handled and resolved in an appropriate manner consistent with its priority and limited staff resources of the division. However, during the sunset period, one investigation was not followed through and remained uninvestigated for approximately seven months. (See Recommendation No. 2.)

For the period July 26, 2005 to May 31, 2007, the division opened 53 investigations. Another 63 complaints were filed during the same period, of which 45 were not investigated further due to lack of jurisdiction or were not determined significant enough for an investigation.

***Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.***

Exhibit 3, below, illustrates the number of active licensees of the board as of May 31, 2007.

**Exhibit 3**

<b>Schedule of Guide-Outfitters and Transporters as of May 31, 2007</b>			
<b>New Licenses Issued (exclusive of renewals)</b>			<b>Current Licenses (as of May 31, 2007)</b>
	<b>FY 06</b>	<b>FY 07</b>	
<b>Master Guide</b>	7	4	113
<b>Registered Guide-Outfitter</b>	22	10	548
<b>Class-A Assistant Guide-Outfitter</b>	10	11	193
<b>Assistant Guide-Outfitter</b>	192	142	1,338
<b>Transporter</b>	35	32	272
<b>Totals</b>	<u>266</u>	<u>199</u>	<u>2,464</u>



The application process and required documentary support for licensing is reasonable and appropriate. Each applicant is required to satisfy the requirements for licensing. The licensing process has been enhanced due to new regulations instituted by the board and is neither unduly restrictive nor too lenient. One inconsistency in the licensing requirement was identified relating to required first aid proficiency by the guide-outfitter licensee group. (See Recommendation No 4.)

While our review of licensee files did not identify significant issues with the division's board-delegated responsibility of issuing new and renewed licenses, two files lacked required supporting documentation as proof of meeting board requirements. (See Recommendation No 1.)

***Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.***

No evidence indicated that hiring practices or the board's appointments were contrary to state personnel practices. No complaints have been filed with the Human Rights Commission, the Governor's Office, the Office of the Attorney General, the Office of the Ombudsman, and the Office of Victim's Rights.

In addition, each time the board has denied an applicant a license, the reason has been based on experience requirements and not personal attributes of the applicant.

***Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.***

Specific recommendations for operational changes, enabling the board to better serve the public interest, are described in Recommendations Nos. 1 through 5 of this report.

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

Generally, the board has effectively attained its objectives since reestablishment on July 26, 2005. The board has protected the public through the implementation of regulations over ethics, improvements over the licensing and examination process, and administrative actions. It has proposed and implemented regulatory and supported, proposed statutory changes of benefit to the public.

However, several operational related deficiencies have hampered the efficiency of the board. Specific issues are described in Recommendation Nos. 1, 2, and 5.

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

No duplication of efforts or activities of the board was identified with the private sector, other governmental agencies, including both state and federal agencies. Further, the statutorily required hunt records and transporters reports were not found to be generally duplicative of other state agencies' required post hunt and transport reports.



STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Office of the Commissioner

*Sarah Palin, Governor*  
*Emil Notti, Commissioner*

September 17, 2007

Ms. Pat Davidson  
Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, Alaska 99811-3300

Dear Ms. Davidson:

RE: Preliminary Audit Report, Big Game Commercial Services Board

Thank you for the opportunity to comment on the findings addressed in your Preliminary Audit Report concerning the Big Game Commercial Services Board. The Department of Commerce Community and Economic Development ("DCCED") appreciates and agrees with your Office's recommendation that regulation and licensing of qualified guide-outfitters and transporters by the Big Game Commercial Services Board benefits the public's safety and welfare as well as protects the State's wildlife resources.

The comments shared with your Division in earlier communications concerning the Big Game Commercial Services Board audit remain unchanged.

DCCED is aware of the administrative deficiencies identified in your findings and recommendations and has undertaken steps to correct this situation. The Director of the Division of Corporations, Business and Professional Licensing has taken and will continue to take steps to ensure that any deficiencies identified in your report are resolved. To that end, I would like to address the Recommendations in your preliminary audit report.

Recommendation No. 1: The director of the Division of Corporations, Business and Professional Licensing (DCBPL or division) should ensure procedures are adhered to by division staff for the efficient and effective support of BGCSB's day-to-day operations.

We concur with this recommendation. The issues identified in item #1 regarding missing and incomplete documentation in license files have been corrected by the use of new staff, and new check sheets which staff use to insure that each file is complete. With respect to item #2 which dealt with a lack of public noticing an examination, this matter has been discussed internally and procedures has been put in place so that the public receives a timely notice of such examinations.

With respect to Item #3 DCCED shares your concerns about proposed regulations being issued without adequate public notice. New staff arrangements and training are in place and are designed to prevent a re-occurrence.

Since reestablishment of the BGCSB, there have been three major regulation projects, and all three were all posted in a timely manner once the information reached the regulations staff. The regulations project referred to in your findings was public noticed on March 10, 2007; it was to announce “oral comments – public hearing” that was being held in conjunction with the Board meeting on March 19-20, 2007. The “written” comments deadline ended on April 10, 2007. Once the comment period ended, the Board adopted the regulations via a teleconferenced meeting on May 18, 2007. Due to a one time miscommunication, the Board’s wishes were not conveyed to the regulations staff in sufficient time for the notice to be sent out. As a result, the Board itself misunderstood what the status was of their regulation project. The public notice on March 10, 2007 and timeline for the series of events that followed were appropriate and acceptable to the regulations attorney’s office in the Department of Law. The Division of Corporations, Business and Professional Licensing has adopted procedures to create better communication between the Big Game board and the staff.

Item #4 concerned with Board minutes which were not drafted within 20 days. This issue again was a matter of staffing and the division has taken steps to resolve these staffing matters. However, the audit also mention that minutes were not posted to the division’s website in conformity with 2 AAC 96.210(a). Please note, this regulation does not necessarily mandate that minutes be posted to the division’s website. It requires that the minutes be made available to requestors of the information. The division posts meeting minutes to websites for convenience of website users and will continue this practice.

Recommendation No. 2: The director of DCBPL should ensure staff adheres to investigative case management procedures.

We appreciate your recognizing the extended board-assigned investigator vacancy and the lack of appropriate case management tracking systems as the causes for the investigative deficiencies. The division has tried for some time to procure an adequate case management tracking system that would benefit investigations for all regulatory programs. DCCED is currently implementing internal reforms aimed at creating a system for monitoring investigations and ensuring that they are completed in a reasonable time frame. The department embraces the use of new technology and the department will continue to provide its investigators with tools they need to address the investigative deficiencies. In that regard the department is in the process of the procurement of an automated case management tracking system.

Recommendation No. 3: The division, in conjunction with BGCSB, should increase licensing fees to mitigate the board’s current and projected operating deficits.

The department concurs with this recommendation. A review of each program’s financial status is conducted by the division prior to a license renewal. Licenses for guide-outfitters and transporters expire on December 31, 2007; and therefore, the fees are currently under review.

Recommendation No. 4: The board should consider modifying regulatory first aid requirements to provide consistency between guide-outfitter licensee types.

The department concurs with this recommendation. The division will review statutes and regulations with the Board to standardize first aid requirements among all categories of licensure within the BGCSB program.

Recommendation No. 5: The board should cease the electronic accumulation of information gathered from hunt records and transporter reports.

The department has already invested significant time and resources in electronic accumulation of information from hunt records and transporter reports. We agree the data requested on the reports should be streamlined and its purpose should relate specifically to the licensing of guide-outfitters and transporters. We concur with your recommendation to the division work with the Board to identify (1) concise and clear use of the information; (2) specific stakeholders; (3) timeframe to reasonably complete the work; and (4) costs associated with the data collection.

Given the amount of resources already invested in electronically capturing the data from these reports, we think it behooves the department to continue collecting information from hunt and transporter records. Additionally, capturing the information electronically will ultimately save valuable staff time from having to manually copy paper reports for enforcement purposes.

The department will commit to working with the Board to identify the points you raised, and will focus its attention on data capture of current information for now.

I assure you the administrative issues identified in your preliminary audit report will be addressed and corrected. We believe that the Board has made a significant contribution to improve commercial guide services in Alaska; and the department will provide the support needed to make this regulatory program operate for the benefit of the industry and the citizens of this State.

Thanks again for allowing us to comment on your findings.

Sincerely,

Emil Notti  
Commissioner

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