

Guide Concession Program FAQ

Question: (signifies new question)

- Question:** What is the Guide Concession Program (GCP)?

Answer: The GCP will select qualified individuals to conduct big game commercial guiding on state land. The program's selection process would involve qualified individuals submitting an application with supporting documentation to the Division of Mining, Land and Water (DMLW), which would then be reviewed and scored by a panel of agency personnel. Concession permits would be awarded and managed by DMLW.
- Question:** Why do we need such a program?

Answer: Currently there are no limits on the number of guides conducting big game guiding on state land. The Board of Game, the Big Game Commercial Services Board and Representatives from the Big Game Guide Industry have identified a variety of issues and have requested DMLW to analyze and develop a program that would address problems occurring in the field including: lack of wildlife conservation, loss of quality of experience, conflicts between user groups, a lack of land stewardship and inadequate levels of enforcement.
- Question:** What legal authority does DNR have to develop and manage a program like this?

Answer: The GCP will be authorized pursuant to Alaska Statutes (AS) 38.05.020 – Authority and duties of the commissioner, AS 38.05.035 – Powers and duties of the director, and AS 38.05.850, Permits.

Specifically the general grant in AS 38.05.035(4) gives the director of DNR the power to, “prescribe application procedures and practices for the sale, lease, or other disposition of available land, resources, property, or interest in them;” and AS 38.05.035(6) states that the director may, “under the conditions and limitations imposed by law and the commissioner, issue deeds, leases, or other conveyances disposing of available land, resources, property, or any interests in them.

Furthermore AS 38.05.035(13)(b)(10)(e) states that: “Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state.”

This broad authority to dispose of “interests” in “land, resources and property” necessarily includes arrangements that are not outright sales or leases, including

concession contracts, licenses, permits, etc. Concession contracts are legally indistinguishable from licenses or permits.

4. **Question:** What is a concession?

Answer: As proposed, a concession is a non-transferable, limited in duration and competitively awarded right to conduct guided hunting operations on general state land managed by DNR, Division of Mining, Land and Water. DNR, Division of Parks and Outdoor Recreation as well as the Bureau of Land Management may choose to participate in the concession program.

5. **Question:** How many and what types of concessions will be offered?

Answer: There are two types of concessions proposed, "Full Concession," and "Limited Concession". Currently the proposed number of state concessions is 215 Full Concession offerings and 85 Limited Concession offerings. There are different rules and restrictions for each type, please see page 21 of the Proposed Decision for further information on full and limited concessions.

6. **Question:** Will an assistant guide be able to apply and obtain a concession permit?

Answer: No, only registered and master guides will be able to apply for and receive a concession permit.

7. **Question:** How many guide concession areas (GCA) will I be able to apply for?

Answer: At this time an applicant will be able to apply for two GCA's and be awarded two.

8. **Question:** What are the categories in the scoring criteria?

Answer: There are four categories in the scoring criteria with each having multiple sub-categories. The four main categories are:

- 1) Demonstrated Experience as a Big Game Guide and Guide Business Owner
- 2) Operating Strategies Used to Protect and Conserve the Natural Resources of the Concession Area
- 3) Business Plan for Operating a Successful Business while Providing Quality Service to the Clients and Financial Ability and Commitment
- 4) Violations/Citations/Convictions/Default History

The answers will be given a point value and the panel assembled to review the applications will review and score each answer. The panel will be responsible for choosing the most qualified applicants based on the scores.

9. **Question:** Does size of development have a positive or negative effect on scoring?

Answer: We are working toward resource conservation and how an applicant addresses that depends on their operating goals and needs.

10. **Question:** Will I gain extra points because I have an established camp under a commercial recreation permit, land use permit or lease with the state?

Answer: No.

11. **Question:** Will the questions be required to be answered in essay style, true or false, or multiple choice?

Answer: Most questions will require a written explanation and supporting documentation for each answer will be required.

12. **Question:** What will be considered confidential in my application packet?

Answer: Only financial and personal information will be kept confidential consistent with Chapter 92 SLA 08 (AS 45.48) and AS 38.05.035. All information will be kept confidential until after the concessions are awarded.

13. **Question:** Will there be a bidding process or a set price for each concession?

Answer: All fees amounts mentioned below are not final and are presented for the purposes of the proposed decision. The goals of the GCP fee structure are to cover the cost of the GCP and provide a reasonable return to the state. DMLW will be requesting that all fees will be solely program receipted to the GCP and not to the state's general fund. All of the final fee amounts will be established in regulation, following the Final Decision for this program. The proposed fees for the GCP are as follows:

- **Application Fee:** Every application must be accompanied by a proposed \$250 application fee. This fee is to cover the administrative costs for handling and preparing applications for the evaluation panel(s).
- **Annual Fee:** All concession holders will be required to pay an annual fee for the duration of the concession permit. This fee will be based upon the actual program cost of running the GCP, including: staff salaries, administrative costs, calculated loss of revenue from decreased permit fees, inflation proofing for the program and accounting for concession vacancies. Currently, the annual program cost is estimated at \$1,000,000.00. The annual fees for full and limited concessions are different due to the level of administrative costs for each permit type. The proposed annual fee for full concessions (215 offerings) is \$4000.00 and is \$2000.00 for a limited concession (85 offerings) based on the preferred scoring option.
- **Client Fee:** There is a proposed per client fee assessed annually. These fees would apply to both resident and non-resident clients. The client fee would be paid by the contracting guide of that client to the state. The proposed client fee is \$750 per client for those species that require a guide for non-residents (brown bear, Dall sheep, mountain goat) and \$500 per client for all other species. This fee is per

client/per contracted hunt only, no matter the number of animals pursued by that client within that contracted hunt. For example, if a client is pursuing a brown bear *and* a Dall sheep, the client fee is \$750 for that contracted hunt. If a client is pursuing a brown bear *and* a moose the client fee is also \$750 for that contracted hunt. If a client is pursuing a moose *and* a caribou the client fee is \$500 for that contracted hunt.

- **Liability Insurance:** Per 11 AAC 96.065, concession holders shall secure, and maintain in force, insurance during the term of the authorization.
- **Bonding:** After consideration of the potential risk to the state, per 11 AAC 96.060(a), the department may require bonding for GCP concessions. Bonds for any other authorizations such as land use permits or leases will still be necessary.

14. **Question:** Who will be on the Evaluation Panel and how will the applications be scored?

Answer: The evaluation panel will consist of agency personnel and the panel members will remain anonymous. The full and limited concession applicants will be scored and considered separately. There may be more than one panel, representing different regions of an agency's jurisdiction. The panel will select the highest scoring applicants by adding Forms A-C of the scoring criteria and subtracting points from Form D (see page 16 of the Proposed Decision).

15. **Question:** What if there is a tie in the process?

Answer: Ties in scores for the same concession area and type will be settled in the following manner:

- If a concession area has more than one available concession and the two highest scores are the same, both applicants will be offered a concession.
- If a tie occurs between applicants and there are not enough concessions to make an offer to both applicants, the tie will be broken by the scores on pre-determined questions from the scoring criteria. The evaluation panel will determine which questions are the tie-breakers prior to reviewing any applications. The applicant who had the highest combined score on the pre-determined questions will be offered a concession.
- If a tie has occurred on the combined scores of the pre-determined questions, then the winning applicant will be selected by lottery.

16. **Question:** If I am selected for a concession permit will I be allowed overnight camping in the area on state land?

Answer: Yes, upon award of the concession permit you will be authorized to camp within the concession area for up to 14 days. Camps or improvements staying in one location in excess of 14 days will be required to secure additional authorization from the appropriate land owner. The process for obtaining an authorization may vary between state or federal land owners.

17. **Question:** How many years will I be able to keep the concession?

Answer: As proposed, the initial concession offerings will be staggered. All of the concessions in the state will be offered in the first year but one third of those will be authorized for 4 years, one third for 7 years, and one third for 10 years. At the end of the 4 and 7 year terms, the next concessions offered for those same areas will be authorized for 10 years. This means that once the first concession period is complete, all of the concessions statewide will be authorized for 10 years. There will be a review and renewal at 5 years required on the 7 and 10 year concessions in their first term and then on every concession thereafter. The review will consist of a records check for compliance with the concession contract requirements and regulations and a check for any changes in violation history. If the concession holder is in good standing and wants to continue the contract, a renewal for the second 5 years will be issued non-competitively.

18. **Question:** Why is there a 5 year review and renewal clause?

Answer: The review will consist of a records check for compliance with the concession contract requirements, regulations and check for any changes in violation history. It also gives the concession holder the opportunity to cancel the remaining term for any reason. If the concession holder is in good standing and wants to continue the contract, a renewal for the second 5 years will be issued non-competitively.

19. **Question:** What process will I have to go through once the awarded concession expires?

Answer: When the term is over you will need to re-apply through the same competitive application and selection process. No preference will be gained specifically for being the previous concession holder.

20. **Question:** Will the concession areas be transferable once issued to the winner?

Answer: No, concessions areas will not be transferable. If a concession area becomes unutilized, the area will be made available at the next regularly scheduled offering.

21. **Question:** How will new guides and smaller, yet already established guides be able to reasonably compete and be awarded concessions in the new GCP?

Answer: In order to create a GCP wherein new guides and smaller, yet already established guides are awarded concessions, DMLW is considering three selection alternatives for what method will be used to award the limited concession opportunities. The three selection alternatives for limited concessions are as follows: Minimum Score and Lottery Draw, Highest Scoring Applicants, and Combination of Lottery and High Score. The preferred selection alternative is to select winners through

a Combination of Lottery and High Score. Together these methods allow the entry of both new guides and smaller, yet already established guides into the industry.

22. **Question:** What will happen to my leased site if I do not win a concession area?

Answer: If the lease holder is not selected to operate in the area, DMLW will provide an opportunity to modify the operations plan of the lease to allow for use other than big game guiding.

23. **Question:** How long will I have to remove my property from state land if I do not win a concession?

Answer: Award notifications and results would be available by early fall, 2014. If you were not a recipient of a concession you would have until December 31, 2014 to remove all personal property from state land. Each location will be reviewed independently to allow sufficient time to remove personal property.

24. **Question:** How will the state deal with predator control areas?

Answer: DMLW will be working closely with the Department of Fish and Game and the Board of Game to address these issues. We are working to put the program together to not interfere with the ADF&G predator control management.

25. **Question:** How will this affect the transporters or other commercial operators?

Answer: This program only affects big game guides.

26. **Question:** If I am guiding on private land, but need to use public land for access, will I need a permit for access on the public land?

Answer: Access types and methods that fall under Generally Allowed Uses of State Land are not affected by this program. If your access method is not generally allowed, a permit may be required. If you do not hold a concession on state land, you will not be allowed to conduct big game guiding.

27. **Question:** What is the timeline for the concessions to be implemented?

Answer: The Department is looking to make applications available to the public January 1, 2014. The deadline for receiving applications would be April 1, 2014. Award notifications and results would be available early fall, 2014. Guide Concession areas would be effective by January 1, 2015. The time frame is preliminary and could change due to staffing and funding for the program on state land.

28. **Question:** Will the public have another opportunity to give input on the terms of the concessions and on the map boundaries and numbers of guides per concession area?

Answer: The next opportunity for public comment begins on February 15th and is open through April 23rd. There may be future comment opportunities when the regulations for the program are created.

29. **Question:** What role does the Bureau of Land Management (BLM) and Alaska State Parks (Parks) have in the process?
Answer: BLM and DPOR (Alaska Division of Parks and Outdoor Recreation) are potential partners in the GCP. If those land managers decide to commit to the GCP, all hunting guides who wish to operate on their lands within a specific GCA will need to show that they hold the applicable GCP concession authorization. In addition, there may be other authorizations, stipulations and fees that the concession winners may need to seek from BLM and DPOR before they can begin operations on those lands.
30. **Question:** Why do we need such a program in Kodiak since there are already tag drawings which limit the number of operators in the area?
Answer: DMLW has decided to implement this program statewide. We understand some areas are currently experiencing higher conflicts than others but we need to keep state wide continuity for the guiding community.
31. **Question:** When will the new guide use area boundaries go into effect?
Answer: The guide use area maps are not under the control of DMLW. Effective dates for revised Guide Use Area boundaries will be up to the Big Game Commercial Services Board to decide.
32. **Question:** Will the GCAs be made into Guide Use Areas?
Answer: The concession area boundaries are subdivisions of the Guide Use Areas. Decisions regarding the Guide Use Areas are under the control of the Big Game Commercial Services Board. DMLW will only be making decisions with regards to the concession area boundaries.
33. **Question:** Is this really going to happen?
Answer: The Guide Concession Program is only a proposed program at this point in time. DMLW is actively working on building this program as a viable and helpful tool for the big game guiding industry. We have the support of many in the industry in addition to the other agencies and boards involved. However, without additional staff and the necessary legislative funding to support this program, DMLW cannot commit to implementing such a program.
34. **Question:** Is the proposed client fee per day per client?
Answer: No, the proposed client fee is per client only. You would pay either the proposed \$500 or \$750 for each client you serve no matter how many days they were guided in the field.
35. **Question:** Are Alaska residents given preference over non-residents in applying for or being awarded a concession?
Answer: Alaska residents are not given preference over non-residents in either the application process or in the awarding of a concession (see question 36). However, as

proposed in the Scoring Criteria, the amount of time spent in a local area while engaged in certain activities is given consideration.

36. **Question:** Why doesn't this program exclude non-residents from applying?
Answer: The Commerce Clause of the United States Constitution has been regularly interpreted by the Supreme Court of the United States to discourage in-state discrimination against non-residents. The clause can be invoked if state regulations appear to limit interstate commerce, or regulate it in a way that is prejudicial to other state's interests. Excluding non-residents from applying and participating in the guide concession program would clearly be in conflict with the Commerce Clause.
37. **Question:** Doesn't the Common Use clause of the Constitution of the State of Alaska (Article 8, section 3) prohibit a program like this?
Answer: The common use clause covers only "fish, wildlife and waters." The guide concession program is a limited disposal of a specific interest in state land and is not a disposal of "fish, wildlife and waters." To the extent that these disposals are viewed as affecting access to wildlife, the Owsichek decision outlines what a program must do to meet common use guarantees. Since the program is designed to meet these Owsichek guidelines, it should survive constitutional scrutiny.
38. **Question:** How many assistant guides does a full rights concession allow?
Answer: A full rights concession permits the contracting guide to employ up to three assistant guides per awarded guide concession.
39. **Question:** How many assistant guides does a limited rights concession allow?
Answer: A limited rights concession permits the contracting guide to employ up to one assistant guide per awarded guide concession.
40. **Question:** Is there a limit on other staff, besides assistant guides, that I can hire?
Answer: There are no limits on employees or staff that are not required to hold a professional license by statute (AS 08.54.605-AS 08.54.640). Examples of these types of staff include, but are not limited to: camp-host, packer, or cook.
41. **Question:** How will DMLW decide which GCAs will be selected for the 4, 7, and ten year initial terms?
Answer: DMLW's proposed decision has assigned what term of duration a concession is initially given based upon which ADF&G Region a GCA falls within.
42. **Question:** Which areas fall under 4, 7, and ten year terms?
Answer: GCAs that fall within ADF&G Regions I, II and V all have an initial term of 4 years. GCAs that fall within ADF&G Region IV all have an initial term of 7 years. GCAs that fall within ADF&G Region III all have an initial term of ten years. See spreadsheet on page 9:

Guide Concession Area	ADF&G Region	Initial Term (Years of Duration)
1-01	1	4
1-02	1	4
6-01	2	4
6-02	2	4
6-03	2	4
6-04	2	4
6-05	2	4
7-01	2	4
8-01	2	4
8-02	2	4
8-03	2	4
8-04	2	4
8-26	2	4
8-27	2	4
8-28	2	4
8-29 A	2	4
8-29 B	2	4
8-29 C	2	4
8-30	2	4
8-31	2	4
9-01	4	7
9-02	4	7
9-03	4	7
9-04 A	4	7
9-04 B	4	7
9-04 C	4	7
9-05	4	7
9-06	4	7
9-07	4	7
9-08	4	7
9-12 A	4	7
9-12 B	4	7
9-19	4	7
9-25	4	7
9-26	4	7

9-29	4	7
9-30	4	7
9-99	4	7
12-01	3	10
Guide Concession Area	ADF&G Region	Initial Term (Years of Duration)
12-03	3	10
13-01 A	4	7
13-01 B	4	7
13-01 C	4	7
13-02 A	4	7
13-02 B	4	7
13-03	4	7
13-04	4	7
13-05 A	4	7
13-05 B	4	7
13-06	4	7
13-07	4	7
14-01	2	4
14-02	4	7
14-03	4	7
14-04	4	7
15-03	4	7
16-01	4	7
16-02 A	4	7
16-02 B	4	7
16-02 C	4	7
16-03 A	4	7
16-03 B	4	7
16-04	4	7
16-05	4	7
17-01	4	7
17-02	4	7
17-03	4	7
17-04	4	7
17-05	4	7
17-06	4	7
18-02	5	4
18-03	5	4
19-01	3	10
19-02	3	10
19-03 A	3	10

19-03 B	3	10
19-04 A	3	10
19-04 B	3	10
19-05	3	10
Guide Concession Area	ADF&G Region	Initial Term (Years of Duration)
19-06	3	10
19-07	3	10
19-08	3	10
19-09	3	10
19-10	3	10
19-11	3	10
19-12	3	10
19-13	3	10
19-14	3	10
20-01	3	10
20-02	3	10
20-03	3	10
20-04	3	10
20-05	3	10
20-06	3	10
20-07	3	10
20-08	3	10
20-09	3	10
20-10	3	10
20-11	3	10
20-12	3	10
21-01 A	3	10
21-01 B	3	10
21-01 C	3	10
21-02	3	10
21-03	3	10
21-04	3	10
21-05	3	10
22-01	5	4
22-02	5	4
22-03	5	4
22-04	5	4
22-05	5	4
22-06	5	4
22-07	5	4
23-01	5	4

23-02	5	4
23-03	5	4
23-04	5	4
23-05	5	4
Guide Concession Area	ADF&G Region	Initial Term (Years of Duration)
23-06	5	4
23-07	5	4
24-01	3	10
24-02	3	10
24-03	3	10
24-05	3	10
25-02	3	10
25-03 A	3	10
25-03 B	3	10
25-09	3	10
25-10	3	10
25-11	3	10
26-06	3	10
26-07	3	10
26-08	5	4
26-09	5	4
26-10	5	4
26-11	5	4
26-12	5	4
26-13	5	4
Number of active GCAs: 139	Number of GCAs in Region 1: 2	Number of GCAs with an initial term of 4 years: 43
Number of available concessions: 300	Number of GCAs in Region 2: 19	Number of GCAs with an initial term of 7 years: 47
	Number of GCAs in Region 3: 49	Number of GCAs with an initial term of 10 years: 49
	Number of GCAs in Region 4: 47	
	Number of GCAs in Region 5: 22	