

APPENDIX A - ISSUE RESPONSE SUMMARY

Comment Count by Topic Report

- (1) Topic/Issue:** **11 AAC 96.025 Generally Allowed Uses on State Lands / Special Use Land Designations Excluded from Generally Allowed Uses**
- Comment Summary Statement:** **How are lands excluded from generally allowed uses, under 11 AAC 96.025, accounted for in the Guide Concession Program (GCP).**
- Response:** Thank you for your comment. 11 AAC 96.020(a) refers to uses and activities that are generally allowed on state land managed by the Department of Natural Resources, Division of Mining, Land, and Water (DNR, DMLW) that do not require a permit. 11 AAC 96.025 provides conditions for these generally allowed uses listed in 11 AAC 96.020(a). Use and activities that may be restricted in legislatively designated areas, or special management category or status are described in 11 AAC 96.014. These lands within these areas are commonly known as special use lands. Generally Allowed Uses (GAUs) will exist simultaneously statewide with the GCP. These GAUs are still in effect for all concessionaires, just as they are in effect for all other users. Where special use land restrictions are in effect, they will remain in effect for GCP concessionaires as well.
- Number of Commenters (letters):** 1
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- (2) Topic/Issue:** **12 AAC 75.210(e) and 75.260(c) / Retention of Hunt Records**
- Comment Summary Statement:** **The requirement to provide copies of hunt records for the past 10 years conflicts with 12 AAC 75.210 (e) and 12 AAC 75.260 (c) which requires the retention of hunt records for four years.**
- Response:** Thank you for your comment. The Big Game Commercial Services Board (BGCSB), under 12 AAC 75.210 (e) and 12 AAC 75.260 (c), requires guides to retain hunt records for a minimum of four years. These are BGCSB regulations and do not apply to DMLW. Within the Scoring Criteria for the GCP, DMLW requests hunt records for the past 10 years in order to review the documentation that shows the applicants experience as a big game guide within the Guide Concession Area (GCA) that the applicant is applying for.
- Number of Commenters (letters):** 1
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- (3) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Ability for Assistant Guide to Bid**
- Comment Summary Statement:** **Commenters expressed the need for assistant guides to have the ability to bid on GCAs.**
- Response:** Thank you for your comment. Currently in Alaska a guide must hold a Registered or Master Guide license in order to be a contracting guide and operate a guided hunting business. Therefore, in order to qualify for the Guide Concession Program, a guide must be licensed as a Registered or Master guide, and be in good standing, with the BGCSB, as well as certified by Occupational Licensing to guide in the Guide Use Area (GUA) for which applying for. Requirements can be found in AS 08.54.610 and 12 AAC 75.100 and 75.110. Assistant guides can gain experience in Guide Use Areas and once they are a Registered or Master Guide they can apply for a GCA.
- Number of Commenters (letters):** 3

(4) Topic/Issue: **Additional Elements to Consider for Proposed Program / Appeal Process**
Comment Summary Statement: **Commenters questioned if an appeal process exists for the Proposed GCP and some commenters provided suggestions for the appeal process, including a two step appeal process starting with the selection panel and then if needed an administrative appeal.**
Response: Thank you for your comment. Individuals who have meaningfully participated in the development of the program and/or applied for a concession will have standing to appeal. Those who disagree with the implementation of the GCP or the review panel's decision(s) will be afforded the opportunity to administratively appeal the decision(s). This right to appeal will be set by regulation. Judicial appeal to the Alaska Court System will then be available if the administrative appeal results in a denial of the appellant's appeal(s).
Number of Commenters (letters): 4

(5) Topic/Issue: **Additional Elements to Consider for Proposed Program / Exclude Specific Areas from Commercial Use as Appropriate**
Comment Summary Statement: **Commenters suggested that the State of Alaska provide a mechanism to exclude specific areas from commercial use within GCAs, where appropriate.**
Response: Thank you for your comment. The scope of the GCP encompasses all general state lands, including submerged lands and waters. Potentially DNR, Division of Parks and Outdoor Recreation (DPOR) and Bureau of Land Management (BLM) may be GCP partners. If so, DPOR and BLM lands will be included in the GCP as well. The GCP does exclude all Mental Health Trust lands, University of Alaska lands and DPOR lands (for the time being). No other areas of state land are proposed to be excluded from the GCP.
Number of Commenters (letters): 1

(6) Topic/Issue: **Additional Elements to Consider for Proposed Program / Fee Sharing Amongst Affected Alaskans**
Comment Summary Statement: **One commenter recommended that the revenue from the concession fees is shared with the affected boroughs so that boroughs can use the revenue to respond effectively to hunter search and rescue efforts.**
Response: Thank you for your comment. DMLW recognizes the costs involved in search and rescue efforts and the importance of search and rescue; however it is not within DMLW's ability to allocate funds to municipalities. Revenue from the GCP is intended to be receipted back into the GCP and/or to the state general fund.
Number of Commenters (letters): 1

(7) Topic/Issue: **Additional Elements to Consider for Proposed Program / Include Method for Guide to Make Investments**
Comment Summary Statement: **Commenters recommend adding a method to the proposed program that provides guides longevity in the GCA so that guides can make a financial investment in their business which will result in an incentive to conserve resources and provide quality services to their clients.**
Response: Thank you for your comment. DMLW recognizes the desire for guides to have the ability to make investments in awarded GCAs. The "Owsichek v. State" Decision

("Owsichek v. State") stated that Exclusive Guide Areas (EGA) were unconstitutional for four reasons including 1) not subject to competitive bidding, 2) provided no remuneration to the state, 3) were of unlimited duration; and 4) guides were able to transfer the EGAs for a profit as if they owned them. These elements had to be addressed in the GCP so that the program is constitutional. The Scoring Criteria for the competitive application process has been designed to award more points to guides with experience in the GCA applied for, in an effort retain guides that make commitments in the GCA and practice sound resource conservation.

Number of Commenters (letters): 4

(8) Topic/Issue:

Additional Elements to Consider for Proposed Program / Number of guides and how they are selected

Comment Summary Statement:

Commenters discussed the process DMLW used to determine the number of guides to be assigned to each GCA in the GCP. Many suggested that the number of guides be determined on a case-by-case basis for each specific GCA.

Response:

Thank you for your comment. Originally the number of guides in each GCA was established by members of the guiding industry during a March of 2008 BGCSB meeting. Those maps were then accepted and endorsed by the BGCSB and forwarded to DMLW for consideration. Those maps were then slightly changed or altered by DMLW prior to the 2009 - 2010 public review. On June 30 and July 1, 2011 revisions were made by the department using information obtained from Occupational Licensing listing the number of guides and hunts conducted specific to each Guide Use Area, comments received, and guidelines established by the "Owsichek v. State" Decision". The maps were made available to the Alaska Department of Fish and Game (ADF&G), BLM and DPOR prior to being finalized by DMLW. Please see the attached maps for changes.

Number of Commenters (letters): 7

(9) Topic/Issue:

Additional Elements to Consider for Proposed Program / Post Season Reports

Comment Summary Statement:

Commenters recommend that the proposed program include a graded post-season report that includes conservation, hunter effort, illegal activity, accident and fee oversight information as well as anecdotal information about predator and prey wildlife populations, recruitment numbers, and range and nutritional concerns. Commenters suggest following the National Park Service grading method: satisfactory, unsatisfactory, and marginal.

Response:

Thank you for your comment. DMLW is proposing to require post season reports from guides to ensure concession holders are complying w/contract terms (stipulations, conditions, etc) on an annual basis.

Number of Commenters (letters): 3

(10) Topic/Issue:

Additional Elements to Consider for Proposed Program / Provide Credit Report and Criminal Records

Comment Summary Statement:

One commenter recommended requiring applicants to provide current criminal records and credit scores.

Response:

Thank you for your comment. DMLW will ask applicants to provide documentation of violations, accidents and incidents in Scoring Criteria 3, Sub-Factor A and Scoring Criteria 4. This is inclusive of a Department of Public Safety (DPS) "any persons

report” under AS 12.62, including fish and wildlife violations. In Scoring Criteria 3, Sub-factor E applicants must submit financial documentation of their proposed guiding operation going back five years. At this time there is no credit report required from applicants.

Number of Commenters (letters): 1

(11) Topic/Issue: **Additional Elements to Consider for Proposed Program / Qualified Bidders**

Comment Summary Statement: **Two commenters stated that limiting the application for GCAs to a single industry is unconstitutional and that DMLW must take steps to assign categorical classes of qualified bidders.**

Response: Thank you for your comment. As proposed the GCP is meant to select qualified big game hunting guides holding the appropriate licenses. This program is not intended to have a direct effect on other commercial or private users of state land.

Number of Commenters (letters): 2

(12) Topic/Issue: **Additional Elements to Consider for Proposed Program / Resolve Overcrowding with Camp Buffers / Register Camps**

Comment Summary Statement: **Commenters recommend that in areas with overcrowding issues, camps should be registered, on a first come, first serve basis, and there should be a required minimum distances between the camps.**

Response: Thank you for your comment. Camp locations will be determined by permit holders and submitted to DMLW as part of the LUP application process. This process is separate from, but complementary to, the proposed GCP.

Number of Commenters (letters): 5

(13) Topic/Issue: **Additional Elements to Consider for Proposed Program / Restrict Use of ATVs**

Comment Summary Statement: **Two commenters noted the destruction of state land by the use of All Terrain Vehicles (ATVs) and recommend establishing a statewide policy regarding accessing state lands by motor vehicles and restricting the use of ATVs by guides.**

Response: Thank you for your comment. DMLW recognizes the potential of harmful effects to the environment from the over use of All Terrain Vehicles (ATV). Policy making and creation of regulations for the use of ATVs on State land is outside the scope of this program. Please refer to the scope of the program outlined in the Proposed Decision. However, the Scoring Criteria does incorporate two questions for the applicant to answer regarding minimization of impacts from ATV use. These questions can be found under Scoring Criteria #2, Sub-factor A.

Number of Commenters (letters): 2

(14) Topic/Issue: **Additional Elements to Consider for Proposed Program / Review GMU Hunting Regulations**

Comment Summary Statement: **Commenter encouraged DMLW to look at the existing hunting regulations related to non-resident allocation in Game Management Unit (GMU) 9, 17, 18, 19, 21, 22, 23, 24, and 26 as well as the conflict that is occurring within GMU 20. The restrictions relating to non-resident allocation in these GMUs result from conservation and social atmosphere related concerns.**

Response:

Thank you for your comment. The implementation and enforcement of hunting regulations is beyond the jurisdiction of DMLW. This is the responsibility of the Alaska Board of Game (BOG) and ADF&G. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits; and regulating methods and means. The BOG is also involved with setting policy and direction for the management of the State's wildlife resources. The BOG is charged with making game allocation decisions, and the ADF&G is responsible for management based on those decisions. The 's authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99. The ADF&G manages, protects, maintains, and improves the fish, game, and aquatic plant resources of the state in the interest of the economy and the general well-being of the state (AS 16.05.020). For this reason, DMLW has discussed your comment regarding hunting regulations and non-resident allocations in certain Game Management Units (GMU) with ADF&G and is working closely with them to determine the appropriate number of guides for GCAs in these GMUs.

Number of Commenters (letters): 1

(15) Topic/Issue:

Additional Elements to Consider for Proposed Program / Scoring of Criteria

Comment Summary Statement:

Commenters made overall remarks related to how the GCP criteria should be scored. Suggestions included using a panel to review range of points for each criterion, having multiple choice questions, re-organizing criteria into five categories (each worth a percentage of total points) and reallocating points among categories.

Response:

Thank you for your comment. DMLW has reviewed the comments related to the Scoring Criteria and made adjustments to many areas of the last version of the scoring criteria. Please review the Proposed Decision and Scoring Criteria that is currently under public review and provide comments.

Number of Commenters (letters): 5

(16) Topic/Issue:

Additional Elements to Consider for Proposed Program / Suggested Model

Comment Summary Statement:

Commenters suggested modeling the GCP after the DPOR (Alaska State Parks) commercial use permit system, Department of Transportation (DOT) and Public Facilities program at Lake Hood, and the existing concession regulations for DPOR. Commenters noted that the DPOR commercial use permit system is a good model because it provides the applicant information on exactly what is required, as opposed to the GCP. The commenter noted that it is not clear what DMLW is looking for on the application. Regarding the program at Lake Hood, the commenter noted this is a good model for a mechanism for an applicant competing for a GCA to pay a leaseholder a fee to make improvements, where DMLW has allowed lodge improvements to be constructed.

Response:

Thank you for your comment. DMLW has reviewed your comments on existing concession programs and other state permitting programs to consider what, if any, elements will be incorporated into the GCP. Additionally DNR has been working with ADF&G, BLM, DPOR and others to incorporate relevant aspects of other programs into this GCP.

Number of Commenters (letters): 4

(17) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Active Guides--Score higher for Guides who Guide**

Comment Summary Statement: Commenters noted that Scoring Criteria should provide higher points for active guides who actually guide and are present with clients in the field, rather than guides that book clients/prepare for the hunts and have assistant guides do the actual guiding in the field.

Response: Thank you for your comment. As currently proposed in the GCP, there are two questions under Scoring Criteria #1, Sub-factor A: Experience as a Big Game Guide that ask (1) the number of days per year spent in the field within the GUA the applicant is applying for and (2) the number of days per year spent in the field total for all GUAs. "In the field" is defined as being present in a main or spike camp directly interacting with the client.

Number of Commenters (letters): 16

(18) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Assistant Guide Issues/Limit Number of Assistant Guides that may work per Guide**

Comment Summary Statement: Commenters noted that assistant guides should be limited under the GCP. Many suggested limiting assistant guides to two or three per registered guide/concession.

Response: Thank you for your comment. DMLW has discussed your comment with ADF&G and is working closely with them to determine the appropriate number of guides and assistant guides for each GCA. The Proposed Decision limits a Full Concession to no more than three assistant guides and a Limited Concession to no more than one assistant guide.

Number of Commenters (letters): 17

(19) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Award More Points to Residents (resident vs. non-resident issues)**

Comment Summary Statement: Commenters suggested that more points be awarded to Guides that are Alaska residents, developing a state resident preference in the GCP.

Response: Thank you for your comment. Although not directly rewarded for being Alaska residents, applicants who spend more time in the area they apply for (either commercially or personally) are eligible to receive additional points. See Scoring Criteria 1, Sub-factor A, question 2. See also Scoring Criteria 2, question 4 and Sub-factor C; Scoring Criteria 3, Sub-factor C, question 1.

Number of Commenters (letters): 12

(20) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Ethical Guides Need Protection**

Comment Summary Statement: The new program/selection process should recognize and select guides who are ethical and honest, which result in better game management and wildlife protection.

Response: Thank you for your comment. DMLW is developing the program for that reason. DMLW has considered those commercial operators who can demonstrate, through words and actions, a commitment to the conservation of land, water, and wildlife resources, and can do so on a consistent, repetitive basis. Additionally, DMLW will have better oversight and compliance opportunities through the creation of an

allocation system where operators are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

Number of Commenters (letters): 3

(21) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Guides Inactive for Conservation Reasons**

Comment Summary Statement: **Commenters noted that inactive guides (those who register but do not hunt in any given year) who are inactive for conservation concerns should be given full credit for that year's experience in the Scoring Criteria.**

Response: Thank you for your comment. Scoring Criteria 2, Sub-factor A, question 3(a) asks for information on how an applicant gathers information about wildlife population trends in the GUAs they guide in. Question 3(b) asks what wildlife population factors an applicant uses in determining how many clients they will guide. Revisions to the Scoring Criteria will be available for review and comment in the Proposed Decision, which will be public noticed in 2012.

Number of Commenters (letters): 2

(22) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Include Veteran Preference**

Comment Summary Statement: **Commenter noted that veterans are at a disadvantage because they are not gaining big game guiding experience while serving their country, yet are learning applicable skills in the military. Commenter proposes veterans be awarded a 5 point preference in the Scoring Criteria.**

Response: Thank you for your comment. DMLW acknowledges that veterans may be at a disadvantage in gaining guiding experience within a Guide Use Area due to military duties that require them to be absent from the state for long periods of time. At this time DMLW has decided not to add veteran's preference points to the Scoring Criteria. Please review and comment on the Proposed Decision which is scheduled to be public noticed in 2012.

Number of Commenters (letters): 1

(23) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Issues Regarding Guides holding both State and Federal Concessions**

Comment Summary Statement: **Commenters were opposed to guides holding federal concessions also being able to apply for and hold state concessions.**

Response: Thank you for your comment. All Registered or Master Guides licensed with the BGCSB, and are in good standing, are eligible to submit a application to DMLW to conduct big game commercial guiding activities on state land, whether or not they have a federal concession. Under AS 08.54.750(b)(1) a registered guide-outfitter may not register for, or conduct big game hunting services in more than three guide use areas during a calendar year. Because of this requirement guides who are selected for a state GCP and who hold other concessions may have to make decisions of where they wish to operate.

Number of Commenters (letters): 7

(24) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Large Operations vs. Small Operations and Scoring Criteria**

Comment Summary Statement: **DMLW's proposed Scoring Criteria/GCP puts small guide operators at disadvantage/favors large operators. Small operators must still be awarded concessions.**

Response: Thank you for your comment. As proposed the GCP offers two levels of concession rights, as described in the Proposed Decision. The intent of offering two levels of concession rights (full rights and limited rights) is to provide entry opportunities for newer, smaller, more niche oriented guides that either cannot or do not want to compete for the full rights package. A new operator winning a limited rights concession package could then build up knowledge and experience in an area and increase their chance for competing for a full rights package in the future if they choose to.

Number of Commenters (letters): 8

(25) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Level of Development Needed to Facilitate Proposed Business**

Comment Summary Statement: **Commenter noted that the 'Level of Development needed to Facilitate Proposed Business' should be added to Scoring Criteria. Sample questions were provided.**

Response: Thank you for your comment. DMLW has added questions to the Scoring Criteria associated with equipment, infrastructure and facilities. These considerations are addressed in Scoring Criteria 3, Sub-factor B, Question 5 and Sub-factor C, Question 1 and Sub-factor D, Questions 5-12. Revisions to the Scoring Criteria are available for review and comment in the Proposed Decision, which will be public noticed in 2012.

Number of Commenters (letters): 1

(26) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / License Requirements**

Comment Summary Statement: **Commenters noted that registered guides must hold specific, current licenses to be applicable for the GCA such as a new Registered Guide License, Contracting Guide License, Alaska Business License, Master Guide License, Workman's Compensation Insurance, etc. Other commenters suggested recreating the outfitter license designation or restructuring the registered guide license with different fee levels so that guides that do not contract hunts pay the same fees as assistant guides.**

Response: Thank you for your comment. As currently proposed in the GCP, copies of licenses such as Guide/outfitter, Business, Guide Use Area, Federal Aviation Administration, U.S. Coast Guard are requested. DMLW does not have the regulatory authority to make changes to the licensing or fees of Registered Guides. That authority lies within the BGCSB.

Number of Commenters (letters): 3

(27) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Limit to Residents / Require Guides to be Alaskan Residents**

Comment Summary Statement: **Commenters noted that Alaska residency should be a requirement of all**

applicants for the GCP. Non-resident guides should not be eligible.

Response:

Thank you for your comment. All Registered or Master Guides licensed with the BGCSB, and are in good standing, are eligible to submit a proposal to DMLW to conduct big game commercial guiding on state land. Alaska Statute 08.54.610, administered and enforced by the BGCSB, provides the requirements to be met for a Registered and Master Guide License. These requirements do not require a guide to be a resident of Alaska; rather the license requires an applicant to have Alaskan big game hunting experience. Moreover, such a blanket prohibition on out of state residents being excluded from work within another state industry has consistently been held to be unconstitutional under the Commerce Clause and/or Privileges and Immunities clause of the United States Constitution.

Number of Commenters (letters): 16

(28) Topic/Issue:

Additional Scoring Criteria/Alternative Scoring Criteria / More Points Should be Awarded to Guides that have More Experience in a GCA.

Comment Summary Statement:

Commenters noted that more points in the Scoring Criteria should be awarded to year-round local resident guides who have more experience in a GCA applied for. Commenters also noted that experience should be measured in number of hunts or number of days guiding, as opposed to the number of years guiding in the Guide Use Area.

Response:

Thank you for your comment. As a direct result of these comments, changes have been made to the Scoring Criteria. Scoring Criteria 1, Sub-factor A, question 1 asks how many days per year a guide spent in the field per GUA and total for all GUAs per year. "In the field" is defined as being present in a main or spike camp directly interacting with the client. Question 2 asks for other relevant non big game guiding experience (either commercial or personal) within the GUA the applicant is applying for.

Number of Commenters (letters): 9

(29) Topic/Issue:

Additional Scoring Criteria/Alternative Scoring Criteria / Personal Interviews should be Element of Process

Comment Summary Statement:

Commenters noted that personal interviews with the selection panel should be part of selection process for GCP.

Response:

Thank you for your comment. DMLW has considered personal interviews as an element of the selection process. However, due to the anticipated volume of applicants, DMLW has decided personal interviews are not administratively feasible. The Proposed Decision addresses the selection panel and will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

Number of Commenters (letters): 4

(30) Topic/Issue:

Additional Scoring Criteria/Alternative Scoring Criteria / Points for Guides Investment in GUA

Comment Summary Statement:

Commenters noted that guides who have made investments in a specific Guide Use Area over the years (such as having an established camp, or having constructed lodges on long-term leases) should receive higher points in the Scoring Criteria for that area. The GCP should promote and foster guide longevity in the GUAs.

Response: Thank you for your comment. DMLW recognizes the desire for guides to have the ability to make investments in awarded GCAs. Guides can make investments, however, DMLW believes that experience in a Guide Use Area (GUA) is equally or more valuable than investments in a GUA. Allocating more points to guides that have experience in a GUA promotes guide longevity within that GUA and allows for better competition during the selection process.

Number of Commenters (letters): 6

(31) Topic/Issue: **Additional Scoring Criteria/Alternative Scoring Criteria / Points should be Awarded for Attending BGCSB Meetings**

Comment Summary Statement: Commenter noted that additional points should be awarded for those guides who have attended and participated in the BGCSB meetings and the Semi-Annual Board of Game (BOG) meetings.

Response: Thank you for your comment. As currently proposed in Scoring Criteria 2, Sub-Factor A, question 4(b) applicants are awarded points for submitting proposals to and/or testifying on Predator Control at BOG meetings. In Sub-factor C, points are awarded to applicants who participate in a myriad of committees, board and organizations dealing with the management of natural resources in Alaska and/or any hunting, shooting or related state program. This includes attendance and participation in BGCSB and BOG meetings. Proof of participation will be required with application.

Number of Commenters (letters): 1

(32) Topic/Issue: **Alaska Professional Hunting Association / Relationship with DMLW and General Comments regarding APHA**

Comment Summary Statement: Commenters remarked on the Alaska Professional Hunting Association's (APHA) comments, actions, and goals with respect to the GCP. Many of the comments reflected that the APHA did not accurately represent the guide industry's interests/voice as a whole.

Response: Thank you for your comment. DMLW is aware that the Alaska Professional Hunting Association does not represent all guides within the industry. All public comments are given equal weight and merit, regardless if they are submitted from an organization or from an individual.

Number of Commenters (letters): 13

(33) Topic/Issue: **Award of GCAs / Number of Concessions Awarded**

Comment Summary Statement: Commenters expressed their opinions on the number of concessions that should be awarded to each guide. Suggestions ranged from one to four concessions per applicant, with the majority of commenters suggesting three concessions.

Response: Thank you for your comment. The proposed GCP allows an applicant to apply for two GCAs and be awarded two GCAs.

Number of Commenters (letters): 10

(34) Topic/Issue: **Award of GCAs / Process of Concessions Awarded**

Comment Summary Statement: Commenters made suggestions related to the process in which concessions are awarded by DMLW. Several suggested letting guides rank their top GCAs

into 1st choice, 2nd choice, etc. Others noted a live auction or final drawing process.

Response: Thank you for your comment. A review panel, consisting of agency personnel, will review all applications and supporting documentation. The review panel will select the most qualified individual based on the selection criteria and points awarded. When a guide is awarded an area, they will be given time to decide if they wish to accept the area.

Number of Commenters (letters): 11

(35) Topic/Issue: **Award of GCAs / Renewal of GCA**

Comment Summary Statement: **Commenters expressed opinions on how often GCAs are renewed. Most suggested a 10-year term, or a five-year term with five-year renewal option. One commenter noted that guides with infractions/violations should not be eligible for GCA renewal.**

Response: Thank you for your comment. The concession authorization would be valid for up to 10 years subject to a review and renewal five years into the 10 year term. If the concession holder is in compliance with the terms of the authorization, then the concession award may be renewed. At 10 years, the individual would need to resubmit an application and go through the competitive process again. This aspect of the program is necessary to meet the constitutional requirements, as identified in the "Owsichek" Decision ("Owsichek v. State"), that the program must be competitive and limited in duration. Violations and infractions will be considered in Scoring Criteria 4 where points are deducted.

Number of Commenters (letters): 7

(36) Topic/Issue: **Award of GCAs / Revocation**

Comment Summary Statement: **Commenter noted that DMLW should have a way to retract concession permits from guides with infractions/violations.**

Response: Thank you for your comment. The five year re-evaluation period allows DMLW to evaluate the concession holder's compliance with the terms of the authorization, including reviewing violations. If the concession holder is found out of compliance, the authorization can be revoked at any time.

Number of Commenters (letters): 1

(37) Topic/Issue: **BGCSB / Problems with BGCSB**

Comment Summary Statement: **One commenter criticized the BGCSB stating that they deal with complex issues that require more time, thought, and research than is allocated. A second commenter suggested sunsetting, overhauling or creating a new organization.**

Response: The BGCSB was established by legislation under AS 08.54.591, with duties of the board outlined in AS 08.54.591 - 08.54.600. The BGCSB is under a separate statutory authority than DNR/DMLW and is therefore outside of DNR/DMLW's jurisdiction or the scope of the GCP decision.

Number of Commenters (letters): 2

(38) Topic/Issue: **BGCSB / Regulatory Authority**

Comment Summary Statement: Commenters questioned if the BGCSB should be the primary regulatory authority developing and administering this GCP, as opposed to DNR.

Response: Thank you for your comment. While the BGCSB does have important responsibilities in regulating the hunting guide industry, DNR/DMLW is the agency tasked with regulating and administering the allowable uses of Alaska's public land and water (AS 38.05.020, AS 38.05.035, AS 38.05.070-0.85, AS 38.05.850), including, as necessary, limitations on commercial uses such as the big game guiding industry.

Number of Commenters (letters): 8

(39) Topic/Issue:

BOG / Responsibilities

Comment Summary Statement: Commenters expressed the need for clarification on the responsibilities of the BOG with respect to this program and managing wildlife in the state.

Response: Thank you for your comment. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits; and regulating methods and means. The BOG is also involved with setting policy and direction for the management of the State's wildlife resources. The BOG is charged with making game allocation decisions, and the ADF&G is responsible for management based on those decisions. The authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99.

In a letter to DMLW (1/11/08), the BOG described comments received from the guiding industry regarding problems associated with resource conservation, industry stewardship, social conflicts, and public safety concerns. The BOG acknowledged that it can only respond to these comments by creating and adopting complex regulations and would rather manage the issues through an area management approach. The BOG cited the "Owsichek" Decision ("Owsichek v. State") and pointed out that the Judge Rabinowitz stated in this decision, 'Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional.' The decision further stated that the ability to develop such a system was available to DMLW. It is for these reasons that DMLW/DMLW is developing a program to address the issues raised by the public and not the BOG.

Number of Commenters (letters): 3

(40) Topic/Issue:

Current Program / Enforcement is Difficult

Comment Summary Statement: Under the current program, enforcement is nearly impossible and guides come from all over the country. DMLW has only recently started to address the issue through some active management practices.

Response: Thank you for your comment. For the GCP to be administratively feasible, DMLW must be granted enforcement authority over the program. This means that DMLW must be given citation authority over violations specific to the GCP. Currently DMLW monitors commercial recreation operations on general state land (including hunting camps) for adherence to permit stipulations and conditions, but has no citation authority on those lands. Only the ability to cite an offender for GCP specific regulations and stipulations is envisaged for the program. This does not include citation authority outside of the GCP or arming any DMLW employees with firearms for any enforcement purposes.

Number of Commenters (letters): 1

(41) Topic/Issue:

Current Program / Guides are Already Regulated by Other Agencies

Comment Summary Statement:

Commenters expressed that guides, land, and wildlife are already regulated by as many as six different agencies and adding more government bureaucracy/rules through another program will not resolve the issues.

Response:

Thank you for your comment. Multiple agencies through statutory authorities enacted by the Alaska Legislature do have responsibilities related to conservation and use of Alaska's game animals. While it may appear that there are too many agencies involved, all of the agencies play important roles in managing some aspect of the legal framework applicable to the big game commercial services industry in Alaska and have specific jurisdictions as mandated by statute. ADF&G manages game populations for sustained yields. The BOG regulates the harvest of game. The DPS, Division of Alaska Wildlife Troopers, enforces the State's game laws and regulations. The BGCSB is responsible for licensing and administration of licenses for registered big game hunting guides. The Division of Corporations, Business and Professional Licensing, within the Department of Commerce, Community, and Economic Development (DCCED), provides investigative services and makes recommendations to the BGCSB on guide licensing compliance issues. DMLW manages state land and water for the use and enjoyment of all Alaskans, including commercial recreational uses such as guiding. All of these agencies play important roles within state guiding industry and their function would be too burdensome for one agency to provide. Additionally, their services provide a balance when conflicts arise between multiple users.

Number of Commenters (letters): 3

(42) Topic/Issue:

Current Program / No Issues or Conflicts

Comment Summary Statement:

Commenters noted they have not experienced any remarkable conflicts or overcrowding under the current program.

Response:

Thank you for your comment. DMLW acknowledges that significant conflicts do not occur in every Guide Use Area; however allocating guided hunting opportunities is anticipated to contribute to the reduction of conflicts where they do occur. Currently DMLW issues an unlimited number of land use and commercial recreation permits to guides who want to operate on state land. The process is not competitive, involves a simple application process, and requires fairly minimal fees. Permit stipulations do include terms for land stewardship and permits are revocable at the will of the state. The current system does not address: wildlife management concerns, quality of hunting experience, overcrowding or user conflicts, or enforcement issues.

Number of Commenters (letters): 6

(43) Topic/Issue:

Current Program / Over Crowding of Guides

Comment Summary Statement:

Under the current program, commenters noted there are too many guides and overcrowding in several guide use areas is an issue.

Response:

Thank you for your comment. It is the intent of the proposed GCP to reduce crowding problems, where they occur, by allocating commercial guided hunting opportunities. Conflicts occur over hunting areas, landing strips, meat care, trespass, and the perceived over-harvest of game animals. The GCP addresses these conflicts within the new Scoring Criteria. In Scoring Criteria One, Sub-factor B, applicants are required to describe how they train their employees and educate clients on local customs, traditions, and courtesies. They also have to describe their methods of handling conflicts with other user groups. In Criteria 3, the entire Sub-

Factor C asks applicants to document how their business practices demonstrate cooperation with local communities. The solution offered by the GCP is to reward those guides and businesses that respect other users and identify and address conflicts between users in productive and successful ways.

Number of Commenters (letters): 16

(44) Topic/Issue:

Current Program / Poor Guide Quality

Comment Summary Statement:

Under the current program, guides have a low standard of ethics and limited hunting experience in the state, providing poor value for hunters.

Response:

Thank you for your comment. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. The competitive aspects of the program are designed to reward hunting and land conservation ethics and encourage continuing land stewardship.

Number of Commenters (letters): 1

(45) Topic/Issue:

Current Program / Poor Stewardship of Resources

Comment Summary Statement:

Under the current program, game populations are being depleted and good stewardship is not being practiced.

Response:

Thank you for your comment. The intent of the GCP is to help achieve management and conservation goals developed by ADF&G and the BOG. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. The competitive aspects of the program are designed to reward hunting and land conservation ethics and encourage continuing land stewardship.

Number of Commenters (letters): 6

(46) Topic/Issue:

Current Program / Violations are a Problem

Comment Summary Statement:

Under the current program, violations are an issue. Many people misuse the land and game resources; violaters should be pushed out of the system.

Response:

Thank you for your comment. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. Additionally, the competitive award system is expected to promote an incentive to minimize violations because Form D of the Scoring Criteria deducts points for violations.

Number of Commenters (letters): 3

(47) Topic/Issue:

Exclusive Guide Use Areas / Guides Managed Resources Properly under Exclusive Guide Use Areas

Comment Summary Statement:

Prior to the 1988 Court Decision eliminating exclusive guide areas, guides managed their own areas. Over harvesting and game stewardship was not an issue with exclusive guide use areas.

Response:

Thank you for your comment. The exclusive guide use system had its positive attributes and supporters, but it was found unconstitutional in 1988 by the Alaska Supreme Court in the *Owsichek* Decision. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides

that have stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

Number of Commenters (letters): 2

(48) Topic/Issue:

Exclusive Guide Use Areas / Lack of Resource Conservation

Comment Summary Statement:

When Exclusive Guide Use Areas were in effect, some outfitters did not use good resource conservation and game populations were negatively affected.

Response:

Thank you for your comment. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides that have good stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

Number of Commenters (letters): 1

(49) Topic/Issue:

Exclusive Guide Use Areas / Reinstate Exclusive Guide Use Areas

Comment Summary Statement:

Exclusive Guide Use Areas should be reinstated so guides are more proactive in conservation and resource protection.

Response:

Thank you for your comment. The exclusive guide use system had its positive attributes and supporters, but it was found unconstitutional in 1988 by the Alaska Supreme Court in the *Owsichek* Decision. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides that have stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

Number of Commenters (letters): 3

(50) Topic/Issue:

Existing Concession Programs / Federal Program

Comment Summary Statement:

Commenters referenced their issues and concerns regarding the Federal Program and current DOI system. Some commenters were opposed to using the DOI program/Federal Program as a model while others noted it has worked for the most part.

Response:

Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 9

(51) Topic/Issue:

Existing Concession Programs / NPS Program

Comment Summary Statement:

Commenters noted the failures of the existing National Park Service

Concession Program with respect to the narrative submission and fee component. Commenters are opposed to modeling this guide concessions program after the NPS Program.

Response: Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 2

(52) Topic/Issue:

Existing Concession Programs / USFWS Program

Comment Summary Statement: Commenters noted the existing U.S. Fish and Wildlife Program. One suggested using it as a model, the other two noted its drawbacks such as restrictive permit stipulations and complex application process.

Response: Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 5

(53) Topic/Issue:

Geography/Maps / Afognak General Comments; GCAs - General Comments; GMU 20A Number of Guides; GUA 01-02 Number of Guides; GUA 06-01 Number of Guides; GUA 08-29 General Comments; GUA 09-11 Boundary; GUA 09-11 General Comments; GUA 09-11 Number of Guides; GUA 09-19 Boundary; GUA 09-19 Number of Guides; GUA 09-25 Boundary; GUA 09-25 Number of Guides; GUA 13-01 General Comments; GUA 16-04 Boundary; GUA 17-03 General Comments; GUA 17-04 Boundary; GUA 17-04 General Comments; GUA 17-05 General Comments; GUA 17-06 General Comments; GUA 19-04 Boundary; GUA 19-04 Number of Guides; GUA 19-06 Number of Guides; GUA 19-07 Number of Guides; GUA 19-15 Boundary; GUA 20-03 Boundary; GUA 20-03 General Comments; GUA 20-03 Number of Guides; GUA 20-04 Boundary; GUA 20-04 General Comments; GUA 20-04 Number of Guides; GUA 20-05 Number of Guides; GUA 20-07 Boundary; GUA 22-07 Number of Guides.

Comment Summary Statement: Commenters commented on GCAs boundaries, number of guides for specific GUAs, boundaries of GUAs, and general comments on GUAs.

Response: Thank you to everyone who commented on the proposed GCP Concession Maps. We have reviewed the proposed maps extensively and have made changes. Our process for editing the maps had several steps. DMLW staff requested information from the Division of Occupational Licensing and were given the following data from 2000, 2009, and 2010: the number of guides registered in each Guide Use Area (GUA); the number of contracted hunts by GUA; the number of contracted hunts per guide per GUA; number of clients served by species. These data, along with all of the public comments were used to evaluate the number of concessions in each GCA and to evaluate anything other issues brought forward in the public comments. Consideration was also given to land status and ownership in each GCA. For general state land, it was decided that to ensure a fair and competitive experience for both guides and clients, every GCA in which there are 5,000 or more contiguous acres would have a minimum of two guide concessions offered. In GCAs with BLM lands, the number of concessions may change with the development of a

cooperative agreement with BLM. There is also the possibility of a cooperative agreement with DPOR that will result in the GCP applying to state park lands. These maps were also reviewed by ADF&G and further adjustments were made based on biological population information.

Number of Commenters (letters): 71

(54) Topic/Issue:

Land Ownership / Concession Regulations on Native Lands

Comment Summary Statement:

Commenters expressed that the State must consider Native lands/boundaries in the proposed program. Concession permits on Native lands must be awarded to a Native Alaskan.

Response:

The scope of the project, as stated in the Proposed Decision, limits the program to state lands, including submerged lands and waters. The delineated GCAs encompass multiple land use designations such as federal lands, Alaska Native Claims Settlement Act lands, native allotments, and municipal or other private parcels. A guide awarded a GCA is not exempt from federal, state, municipal regulations, statutes, and ordinances, including Native lands. Therefore the award of a GCA to a guide does not give the guide the right to trespass on private land, including Native land.

Number of Commenters (letters): 2

(55) Topic/Issue:

Land Ownership / Concession Regulations on State Park Lands

Comment Summary Statement:

Commenters noted that this DMLW concession program should be compatible with regulations for DPOR lands. Hunts should not be allowed in state parks.

Response:

A guide awarded a GCA is not exempt from federal, state, municipal regulations, statutes, and ordinances, including DPOR land. However, through a Memorandum of Agreement with the DPOR, the GCP could be administered on state park land.

Number of Commenters (letters): 4

(56) Topic/Issue:

Levels of Concession Rights / Allow Limited Rights Guides to Hire Assistant Guides

Comment Summary Statement:

Commenter noted that guides with limited rights should be allowed to hire assistant guides under the proposed program.

Response:

Thank you for your comment. When finalizing the levels of concessions in the GCP, DMLW has considered your comments regarding guides with limited concessions having the ability to hire assistant guides. Currently limited concession holders will be allowed up to one assistant guide per awarded limited concession.

Number of Commenters (letters): 1

(57) Topic/Issue:

Levels of Concession Rights / Conservation-based Approach

Comment Summary Statement:

Commenter urged a conservation based caution in developing limited rights concession that may prove to have limited sustainability based on conservation aspects.

Response:

Thank you for your comment. When finalizing the levels of concession rights in the GCP, DMLW has reviewed the element of limited rights concessions with respect to resource conservation.

Number of Commenters (letters): 1

(58) Topic/Issue:

Levels of Concessions / Full Rights Concession

Comment Summary Statement: Commenters support using only the full rights concession model for purposes of resource stewardship and long-term industry sustainability.

Response: Thank you for your comment. DMLW recognizes that there are many types of guide operations in the state. The GCP seeks to ensure that the opportunity exists for all types of operators to be able to compete for a concession and that we have a fair competitive process for all sizes of operations. Another concern, born out of the *Owsichek* decision, is that the original Exclusive Guide Areas (EGAs) did not allow new entrants into the guiding industry. Because of *Owsichek*, the GCP also needs to ensure that there is opportunity for new guides to gain entry into the industry on state lands.

Number of Commenters (letters): 2

(59) Topic/Issue:

Levels of Concession Rights / Limited Concession for Brown/Grizzly Bears

Comment Summary Statement: Commenter suggests DMLW carefully look at the areas being considered for limited brown/grizzly concessions with respect to intensive management area listing and predator management.

Response: Thank you for your comment. When finalizing the levels of concessions in the GCP, DMLW reviewed the area that was proposed as a limited brown/grizzly only concession. Based on wildlife conservation, DMLW does not propose any concessions that are species specific.

Number of Commenters (letters): 2

(60) Topic/Issue:

Levels of Concession Rights / Secondary Level Adds Confusion or Problems to the Process

Comment Summary Statement: Commenters are opposed to limited rights or a 'secondary level' of rights because it will cause problems with guides being able to accompany each client into field, doesn't coincide with mapping process, and is contrary to state objectives of wildlife conservation and minimizing guide conflict.

Response: Thank you for your comment. DMLW reviewed the advantages and disadvantages of having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 8

(61) Topic/Issue:

Levels of Concession Rights / Secondary Level may Work on Case by Case Basis

Comment Summary Statement: Commenter suggested that a secondary level of concession rights may be feasible in large areas with multiple species, but will not work in areas with limited non-resident permits unless it is species limited.

Response: Thank you for your comment. DMLW reviewed the advantages and disadvantages of

having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 1

(62) Topic/Issue:

Levels of Concession Rights / Support Two Levels of Concession Rights

Comment Summary Statement:

Commenters are supportive of having two levels of concession rights offered in the DMLW GCP as limited rights better support smaller guide operators.

Response:

Thank you for your comment. DMLW reviewed the advantages and disadvantages of having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 10

(63) Topic/Issue:

Management Intent/Program Goals and Objectives / Administratively Feasible

Comment Summary Statement:

Commenters questioned the feasibility of the program from an administrative perspective (cost of appeals, court cases, program development, enforcement and financing).

Response:

Thank you for your comment. The GCP will require support from the Legislature to implement. In 2006, former DNR Commissioner Mike Menge initiated a review of whether the department's authority was in fact sufficient to create such a program. In directing department staff to accomplish this task, Commissioner Menge recognized that the lack of direct funding would limit DNR's ability to implement such a new program, should it be found viable. DMLW staff, working with the Department of Law, concluded that the department does have sufficient authority to create and manage a program that allocates and distributes big game guiding use of state lands. With monetary support from the Legislature, the department has committed to developing the necessary elements of a new guide concession program.

As designed the program is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund or be receipted back to the GCP. Direct economic benefits of the GCP to the state will be realized in three different ways. The first is through an application fee per concession applicant. This amount has not yet been determined. The second way is through an annual fee for all concession winners. The third and final way the state will receive direct economic benefit is through a client fee which will be assessed and collected annually.

Number of Commenters (letters): 3

(64) Topic/Issue:

Management Intent/Program Goals and Objectives / Conservation of Resources

Comment Summary Statement:

Commenters expressed that DMLW should primarily focus on conservation of wildlife when developing this concession program and Scoring Criteria.

Response:

Thank you for your comment. The intent of the GCP program is to help achieve management and conservation goals developed by the ADF&G and the BOG. The GCP addresses wildlife conservation through the Scoring Criteria and through

coordination and communication with ADF&G. First of all, applicants are given credit if they can demonstrate how they have conserved wildlife and minimized their impacts to wildlife resources (Criteria 2). In that same Criteria, applicants are also given credit for tracking wildlife populations, using wildlife population factors to determine how many clients they will serve, demonstrated communication with wildlife managers, and for participating in state sponsored predator control efforts. Second, in Criteria 3, applicants have to provide a detailed operating plan that includes the number of clients and types of hunts that will be offered. The plan will be scored on whether or not the proposed operation is biologically feasible and then the plan itself, such as the number of clients proposed, will become binding terms in the contract.

Number of Commenters (letters): 23

(65) Topic/Issue: **Management Intent/Program Goals and Objectives / Economic Impacts of Program**

Comment Summary Statement: **Commenters noted the proposed Guide Concessions Program will have detrimental economic impacts to guides and the State in terms of lost revenue, higher cost of hunts, additional expenses and impact to existing guide investments. Commenters stated the program is not economically feasible for guides to operate their businesses. The program would also hurt small or young guide operators, potentially forcing them out of the industry.**

Response: Thank you for your comment. DMLW acknowledges that the GCP has the potential to have an adverse economic impact to some guides. However, the current system does not address many of the issues brought forward from the BOG, BGCSB, and members of the guiding industry, such as: wildlife management concerns, quality of hunting experience, overcrowding or user conflicts, and enforcement issues. Several alternatives to the GCP are discussed in detail in the Proposed Decision and DMLW encourages the public to review the program and provide feedback on all potential solutions to the issues.

As designed the program is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund or be receipted back to the GCP. Direct economic benefits of the GCP to the state will be realized in three different ways. The first is through an application fee per concession applicant. This amount has not yet been determined. The second way is through an annual fee for all concession winners. The third and final way the state will receive direct economic benefit is through a client fee which will be assessed and collected annually.

Improvements that have been previously permitted on state land such as cabins or other infrastructure will be subject to the terms and stipulations of the existing authorizations. In the event that the owner of improvements does not win a concession, the owner will be responsible for the disposition of the improvements according to the existing permit or lease terms or may have to change their activities to another authorized use that is not big game guiding.

DMLW recognizes that there are many types of guide operations in the state. The GCP seeks to ensure that the opportunity exists for all types of operators to be able to compete for a concession and that we have a fair competitive process for all sizes of operations. The GCP does this through offering two types of concessions, the full and limited. For a full discussion of the concession types and rationale, please see the Proposed Decision.

Number of Commenters (letters): 37

(66) Topic/Issue: **Management Intent/Program Goals and Objectives / Industry Sustainability**
Comment Summary Statement: **DMLW must develop the GCP to best protect sustainability and viability of the guiding industry in the long-term.**
Response: Thank you for your comment. Alaska's professional hunting guide and outfitter industry has and will continue to provide a needed service to visiting hunters. These visitors are attracted to the state for its outstanding wildlife resources and provide the state with revenue from license sales and by contributing to local economies and businesses. The GCP is intended to improve the quality of big game guided hunting on state land while enhancing wildlife and land conservation.
Number of Commenters (letters): 9

(67) Topic/Issue: **Management Intent/Program Goals and Objectives / Reduce User Conflicts / Consider All Users**
Comment Summary Statement: **Commenters expressed that the Guide Concessions Program should aim to reduce the current conflicts within the guiding industry and other users (residents, subsistence users) of the area.**
Response: Thank you for your comment. DMLW recognizes that there are conflicts between users in some areas. The negative perceptions result from interactions between residents and guides or guided hunters in the field, in local towns, or along transportation corridors. Conflicts occur over hunting areas, landing strips, meat care, trespass, and the perceived over-harvest of game animals. The GCP Scoring Criteria addresses this issue in several ways. In Scoring Criteria One, Sub-factor B, applicants are required to describe how they train their employees and educate clients on local customs, traditions, and courtesies. They also have to describe their methods of handling conflicts with other user groups. In Criteria 3, the entire Sub-Factor C asks applicants to document how their business practices demonstrate cooperation with local communities. The solution offered by the GCP is to reward those guides and businesses that respect other users and identify and address conflicts between users in productive and successful ways.
Number of Commenters (letters): 37

(68) Topic/Issue: **Miscellaneous Comments and Commenter Background Information / Thank you for your comment**
Comment Summary Statement: **Commenters provided information on their personal backgrounds (e.g. number of years of guiding experience), thanked DMLW for efforts to date, discussed other public comments, provided summaries of the *Owsichek Decision (Owsichek v. State)*, and discussed additional background information on other agencies such as the BGCSB and ADF&G.**
Response: Thank you for your comments. We received numerous comments in support of DMLW's efforts to develop the GCP and also numerous comments in support of retaining the current DMLW land use permit system. DMLW appreciates the commenters' history with guiding in Alaska, their experience, perspective, and opinions.
Number of Commenters (letters): 65

(69) Topic/Issue: **Owsichek / Fail to Address Issues**

Comment Summary Statement: Commenters noted that DMLW has failed to address the points raised in the *Owsichek Decision (Owsichek v State)* with the GCP, including allocate resources among currently established registered guides without consideration of the other potential commercial or noncommercial users.

Response: Thank you for your comment. The issue in the *Owsichek v. State* case was to decide whether two statutes, AS 08.54.040(a)(7) and .195, comport with article VIII, section 3 of the Alaska Constitution. The statutes authorized the Guide Licensing and Control Board to grant hunting guides 'exclusive guide areas.' The *Owsichek* Decision stated that Exclusive Guide Areas were unconstitutional for four major reasons including 1) not subject to competitive bidding; 2) assignments were not based on wildlife management concerns and therefore could not be justified as a wildlife management tool; 3) provided no remuneration to the state; and 4) EGAs were grants of unlimited duration and were not subject to any other contractual terms or restrictions (such as effectively selling an EGA as if it were a property interest). The court went on to say that 'Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration.' The four major reasons the court cited to support its finding have been addressed in the GCP. The GCP has a competitive application process, has been developed with the ongoing involvement of ADF&G, provides remuneration to the state, and concessions are of limited duration (and are not transferable). Additionally, all state lands subject to this program will remain open to all other allowable uses including resident and subsistence hunting, according to existing laws and regulations. Concessions awarded are not considered to convey an interest in state land, rather a right to enter upon state land for the purpose of conducting professionally guided (commercial) hunts.

Number of Commenters (letters): 5

(70) Topic/Issue: *Owsichek / Fee Bidding*

Comment Summary Statement: Commenter noted that the *Owsichek Decision (Owsichek v. State)* did not specify that fee bidding was required in the program. The *Owsichek Decision* separates bidding from payment of remuneration or fees. A second commenter stated there is limited legal risk in dropping fee bidding from the program.

Response: Thank you for your comment. The *Owsichek Decision (Owsichek v. State)* did not specify fee bidding as a requirement of a concession program; however the decision did state as a major reason, among other reasons, that Exclusive Guide Areas were unconstitutional because they were not subject to competitive bidding and they provided no remuneration to the State. Comments received regarding the bid were almost entirely opposed to the concept. After consideration of the comments received DMLW removed the bid. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 1

(71) Topic/Issue: *Owsichek / Valuable Consideration*

Comment Summary Statement: Commenter stated that in the case of a state contract with a private individual connected to the use of public resources, "valuable consideration," ultimately is defined as consistent with public interest and public trust doctrine.

Response: Thank you for your comment. The mission of the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), is to provide for the appropriate

use and management of Alaska's state owned land and water, aiming toward maximum use consistent with the public interest. This mission is part of the statutory requirement for multiple purpose use, described in Alaska Statute (AS) 38.05.285. Multiple purpose use includes management of the commercial use of state land and DMLW has been asked to consider the development of an area based allocation system for commercial big game guides on state land.

Number of Commenters (letters): 1

(72) Topic/Issue:

Process / Alternatives Considered

Comment Summary Statement: Commenters expressed that DMLW should consider other alternatives besides the GCP. Alternative solutions to the problems/issues with the current program should be explored.

Response: Thank you for your comment. DMLW has considered alternatives to the GCP and a full discussion of these can be seen in the Proposed Decision. DMLW reviewed alternatives to the overall GCP and also considered alternatives within the GCP framework. All of the alternatives have the potential to address some of the issues that have been identified but the GCP is the preferred alternative because it has the potential to address the majority of the issues effectively.

Number of Commenters (letters): 5

(73) Topic/Issue:

Process / Authority/Legality of Concession Program

Comment Summary Statement: Commenters stated that DNR does not have the authority to create and manage the GCP. DNR's organizational intent is to manage state land, not wildlife or people. Others noted that limiting access to state lands to exclusive concession applicants is unconstitutional.

Response: Thank you for your comment. Multiple agencies through statutory authorities enacted by the Alaska Legislature have responsibilities related to conservation and use of Alaska's game animals. The ADF&G manages game populations for sustained yields. The BOG regulates the harvest of game. The DPS, Division of Alaska Wildlife Troopers, enforces the State's game laws and regulations. The BGCSB is responsible for licensing and administration of licenses for registered big game hunting guides. The Division of Corporations, Business and Professional Licensing, within DCCED, provides investigative services and makes recommendations to the BGCSB on guide licensing compliance issues. Through statutory authority DNR manages state land and water for the use and enjoyment of all Alaskans, including commercial recreational uses such as big game guiding. Depending upon the degree of activity, and permanency of any improvement on state land, DNR/DMLW may use AS 38.05.020, AS 38.05.035, AS 38.05.070-.085, AS 38.05.850 and other statutes for authority to write land use authorizations to licensed guides. The Alaska Supreme Court recognized, in the *Owsichek* Decision (*Owsichek v State*), that DNR's existing statutory authority provides a basis to create a program that directly addresses the deficiencies that the Court found to exist in the original Exclusive Guide Area program. All state lands subject to the program will remain open to all other allowable uses including resident and subsistence hunting, according to existing laws and regulations. Concessions awarded are not considered to convey an interest in state land, rather a right to enter upon state land for the purpose of conducting professionally guided commercial hunts.

Number of Commenters (letters): 10

(74) Topic/Issue:

Process / Availability of Supporting Materials

Comment Summary Statement: Commenters would like the supporting materials mentioned in the White Paper to be made available to the public by DMLW.

Response:

Thank you for your comment. Historical documents including the *Owsicheck vs. State Decision* and letters from the Big Game Commercial Service Board, BOG, and Former Governor Sarah Palin are posted on DMLW's GCP website and are available for the public to review. Please contact DMLW if material mentioned in the White Paper is not posted on DMLW's website.

Number of Commenters (letters): 4

(75) Topic/Issue:

Process / Public Comment Period

Comment Summary Statement: Commenters noted the public comment period for the GCP should be extended and that public should have a reasonable opportunity to express support/opposition to the program.

Response:

Thank you for your comment. The public comment period was extended through March 31, 2010. That extension brought the first public comment period to a close. The public will have an additional opportunity to comment on the GCP during the public comment period for the Proposed Decision. The public notice for comment on the Proposed Decision is anticipated to occur in January of 2012.

Number of Commenters (letters): 10

(76) Topic/Issue:

Process / Public Participation in Process; Handling of Previous Comments/Input

Comment Summary Statement: Commenters noted the lack of public participation in the process and/or were opposed to the manner in which previous public comments were handled. Several suggested an industry survey of all guides be conducted in addition to collecting Alaska Professional Hunters Association input. Others noted meetings have been frustrating because comments/decisions made at meetings did not get incorporated into final draft program/mapping.

Response:

Thank you for your comment. DMLW has made multiple efforts to create awareness of the GCP and to solicit comments on the program. Starting in 2007, DMLW attended BGCSB meetings, appeared on a local Anchorage radio talk show, attended local meeting of the BOG's Anchorage Advisory Committee, and held a series of informational meetings throughout the state. DMLW received input from the public via phone, email, in-person and through the official public comment process. All comments have been reviewed and given equal consideration into incorporation into the Proposed Decision. An effort has been made to catch comments previously made on the GCA mapping that was not captured in the draft maps.

Number of Commenters (letters): 33

(77) Topic/Issue:

Process / Review of Other Programs and Integration of Other Program Elements

Comment Summary Statement: Commenters noted that DMLW should review other established programs and other state models when developing this GCP.

Response:

Thank you for your comment. DMLW has reviewed existing concession programs such as those implemented by the Department of the Interior (BLM, National Park Service, U.S. Fish and Wildlife Service) and other state programs where guided

hunting is an industry.

Number of Commenters (letters): 3

(78) Topic/Issue:

Process / Use of Public Funds

Comment Summary Statement:

Commenters expressed concern about the use of public funds to develop/administer the GCP. Many noted that public funds should not be used to subsidize concession permit management for the commercial (for-profit) hunting industry. Costs of the program should be made public.

Response:

Thank you for your comment. Initial funding from the legislature will be necessary to cover the start up costs. The initial level of support will be determined by the legislature. The proposed fees for the GCP are: (1) A \$250 application fee that will cover the administrative costs of reviewing applications; (2) a flat annual fee based upon the actual cost of running the GCP, including staff salaries, administrative costs, calculated loss of revenue from decreased permit fees, and inflation proofing for the program. This fee has not been calculated as staff and funding is to be determined. Annual fees for the full and limited concessions may be different depending on final administrative cost calculations and; (3) a client fee assessed annually per client/per contracted hunt, no matter the number of animals pursued by that client within a contracted hunt. The client fee would be paid by the contracting guide of that client to DMLW. The proposed fee is \$750 per client for those species that require and guide for non-residents (brown bear, Dall sheep and mountain goat) and \$500 per client for all other species. All fees will be set in regulation. As designed the GCP is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund.

Number of Commenters (letters): 6

(79) Topic/Issue:

Program Alternatives / A Set Allocation for Non-Residents

Comment Summary Statement:

Commenters suggested limiting non-residents to a set allocation of hunt concession permits. A 10% allocation of all big game permits to non-residents was recommended by all commenters.

Response:

Thank you for your comment. DMLW considered the alternative of a set allocation for non-residents. This alternative would set aside a percentage of the harvestable surplus for non-residents, potentially statewide, and the vehicle for this system would likely be drawing permits for all species. An advantage of this alternative is that it provides a more predictable allocation of game to non-residents and allows guides to plan their businesses. The disadvantages of this alternative include: this limits business opportunities for hunting guides and outfitters as it would reduce overall non-resident hunting opportunity; this would not allow for increases in non-resident opportunity in areas where wildlife populations fluctuate and the harvestable surplus increases significantly; and this alternative also does nothing to encourage land stewardship and would also reduce revenue to ADF&G from license and tag sales. This alternative does nothing to address enforcement concerns. There is a full discussion of all the alternatives considered in the Proposed Decision.

Number of Commenters (letters): 5

(80) Topic/Issue:

Program Alternatives / Changes to Occupational Requirements/Limits

Comment Summary Statement:

Commenters suggested limiting the number of areas a guide can register for,

having less guides per Guide Use Area, and decreasing the size of the Guide Use Areas.

Response:

Thank you for your comment. The authority to manage Guide Use Areas (GUAs) falls under the Big Game Commercial Services Board (BGCSB). It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750). The alternatives to the GCP that fall under the BGCSB authority are considered in detail in the Proposed Decision.

Number of Commenters (letters): 7

(81) Topic/Issue:

Program Alternatives / Permit/Draw

Comment Summary Statement:

Commenters encouraged DMLW to consider using a structured drawing permit/lottery system to award a limited number of tags. One commenter argued against enlarging the draw permit system citing a negative impact on the quality of guided hunts.

Response:

Thank you for your comment. The allocation of wildlife resources is under the authority of the Alaska Board of Game (BOG) and their regulatory process. The advantages and disadvantages of changing the allocation system of wildlife resources to non-residents are discussed in detail in the Proposed Decision. This is an alternative that is not within the authority of DMLW.

Number of Commenters (letters): 18

(82) Topic/Issue:

Program Alternatives / Strict Limit on the Number of Guide Licenses Available

Comment Summary Statement:

Commenters stated that the State should stop issuing, or limit, the number of licenses for registered guides in Alaska.

Response:

Thank you for your comment. The issuance of professional licenses in the guide industry falls under the authority of the BGCSB. It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750).

Number of Commenters (letters): 18

(83) Topic/Issue:

Proposed Program / Do Not Support the Proposed Program

Comment Summary Statement:

Commenters expressed their opposition to the GCP as it is currently proposed.

Response:

DMLW received comments from 31 individual commenters that stated opposition to, or lack of support, for the GCP. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.

Number of Commenters (letters): 36

(84) Topic/Issue: **Proposed Program / Support Proposed Program**
Comment Summary Statement: **Commenters expressed their support for the GCP.**
Response: Thank you for your comment. DMLW received comments from eight commenters that stated they supported the GCP. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.
Number of Commenters (letters): 10

(85) Topic/Issue: **Proposed Program / The Proposed Program will Improve Current Conditions**
Comment Summary Statement: **Commenters noted that the proposed GCP will improve current conditions, enhance hunting experience, and help solve overcrowding issues on State lands.**
Response: Thank you for your comment. DMLW received comments from six commenters that stated they thought the GCP would improve the existing conditions in the field. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.
Number of Commenters (letters): 6

(86) Topic/Issue: **Proposal Introductory Questions / Additional Questions**
Comment Summary Statement: **Commenters suggested adding the question to the introductory portion of the Concession Application, 'Are you certified by the BGCSB to guide for the big game species you are intending for in the unit for which you are applying?'**
Response: Thank you for your comment. The BGCSB does not certify guides for specific species, they certify guides for operating in specific Game Management Units. Therefore no such certification will be required by DMLW. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.
Number of Commenters (letters): 3

(87) Topic/Issue: **Proposal Introductory Questions / Provide Documentation or Proof with Answers**
Comment Summary Statement: **Commenters noted that applicants should be required to provide proof of the claims made in application and proof of insurance and bonding capacity.**
Response: Thank you for your comment. DMLW has requested that applicants provide proof of their answers and claims throughout the Scoring Criteria and under the Minimum Requirements section. DMLW has decided to require each concession applicant to provide proof of coverage for commercial liability insurance. The amount is to be determined but will likely be commensurate to what is required currently for DMLW Land Use Permits. DMLW does not anticipate bonding for the GCP itself; however concession winners will still need to apply for land use permits within their concessions that will still be subject to bonding requirements. In addition, DMLW reserves the right to implement other bonding requirements for the GCP in the future. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.
Number of Commenters (letters): 2

(88) Topic/Issue:

Proposal Introductory Questions / Question Number 2

Comment Summary Statement:

Commenter questioned what documentation/legal decision DMLW relied on to allow only an individual with an occupational license to bid.

Response:

Thank you for your comment. The GCP is a program that is being proposed as a method to address issues identified by several boards and the guiding industry. The program is specific to the guide industry and as such, concession offerings are limited to those individuals who are licensed in that industry. One of the purposes of the GCP is to ensure that commercial guide operations are conducted by professionals that can demonstrate experience, competence, and stewardship in their field. One of the boards that has requested DMLW to implement the GCP is the BGCSB. It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750).

Number of Commenters (letters): 2

(89) Topic/Issue:

Proposal Introductory Questions / Question Number 3

Comment Summary Statement:

Commenter noted that Introductory Question #3 should also ask, if applicants are currently registered or permitted for activity with the Borough.

Response:

Thank you for your comment. DMLW will likely include a stipulation on the concession contract that is similar to the, "Other Authorizations," stipulation on current DMLW Land Use Permits. That stipulation reads, "The issuance of this authorization does not alleviate the necessity of the permittee to obtain authorizations required by other agencies for this activity." The complete list and details of terms, stipulations, and regulations for concession contracts will be published and available for comment during the regulatory creation process.

Number of Commenters (letters): 1

(90) Topic/Issue:

Proposal Introductory Questions / Question Number 4

Comment Summary Statement:

Commenters noted that Introductory Question #4 should be removed along with bid criteria and suggested replacing it with an annual concession fee or a client based fee.

Response:

Thank you for your comment. DMLW has decided to remove the bid from the application and scoring criteria and a full discussion of the proposed fee structure is within the Proposed Decision.. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

Number of Commenters (letters): 2

(91) Topic/Issue:

Proposal Introductory Questions / Question Number 5

Comment Summary Statement:

Commenters noted that more information should be given on bonding requirements (e.g. how much and what is it required for) and applicants should be required to submit proof of bonding and insurance.

Response: Thank you for your comment. DMLW has decided to require each concession applicant to provide proof of coverage for commercial liability insurance. The amount is to be determined but will likely be commensurate to what is required currently for DMLW Land Use Permits. DMLW does not anticipate bonding for the GCP itself; however concession winners will still need to apply for land use permits within their concessions that will still be subject to bonding requirements. In addition, DMLW reserves the right to implement other bonding requirements for the GCP in the future. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

Number of Commenters (letters): 3

(92) Topic/Issue: **Review Panel / Ability to Conduct Quality Review**

Comment Summary Statement: **Commenters are concerned about the Selection Panel's ability to conduct a fair and quality review of concession applications. Commenters noted it would be too time consuming and complex to verify each applicants' information. Some were concerned about DMLW employees being subject to bribery as well.**

Response: Thank you for your comment. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM. The panel(s) will use a standardized scoring system when reviewing and scoring applications. The review panel members and the scoring standards will remain confidential. The Review Panel will be allotted as much time as necessary to conduct unbiased, quality reviews.

Number of Commenters (letters): 4

(93) Topic/Issue: **Review Panel / Confidentiality**

Comment Summary Statement: **Commenter noted that applications should be confidential (applicant's name not revealed to review panel) to lessen any personal bias in selection process.**

Response: Thank you for your comment. Financial and personal information will be kept confidential, consistent with Chapter 92 SLA 08 (AS 45.48) and AS 38.05.035. However DMLW will be unable to keep applicants names confidential due to the large volume of information and documentation required. All other information will be kept confidential until the concession winners are released to the public.

Number of Commenters (letters): 1

(94) Topic/Issue: **Review Panel / Guides should not be Members of the Review Panel**

Comment Summary Statement: **Commenters noted that guides should not be on the Selection Panel. It was noted that guides may be biased and be unable to make an impartial decision.**

Response: Thank you for your comment. DMLW agrees that input by industry personnel on the review panel would be subject to accusations of bias and would constitute a conflict of interest. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM.

Number of Commenters (letters): 4

(95) Topic/Issue:

Review Panel / Make Up of Panel

Comment Summary Statement:

Commenters made suggestions regarding which individuals should be on the Review Panel. Various suggestions included industry personnel, 1-2 retired registered guides, BGCSB member, community advisory committees, local government representative, and subsistence representative.

Response:

Thank you for your comment. DMLW has considered your comments on the makeup of the review panel before finalizing the GCP. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM.

Number of Commenters (letters): 6

(96) Topic/Issue:

Review Panel / Tie Breaker

Comment Summary Statement:

Commenters made suggestions on how to best break a 'tie' in concession application scoring. Suggestions included a coin toss, seniority, least number of concessions, meeting with both parties to find an agreeable solution, and selecting the applicant with the highest score on the highest graded criteria.

Response:

Thank you for your comment. DMLW has considered tie breaker comments when finalizing the GCP. Ties in scores for the same GCA and type will be settled in the following manner:

1. If a GCA has more than one available concession and the two highest scores are the same, both applicants will be offered a concession.
2. 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. DMLW will determine which questions are the tie-breakers prior to the panel(s) reviewing any applications. The applicant who had the highest combined score on the pre-determined questions will be offered a concession.
3. If a tie has occurred on the combined scores of the pre-determined questions, then the winning applicant will be selected by lottery.

Number of Commenters (letters): 5

(97) Topic/Issue:

Scoring Criteria #1 / Sub-factor A, Personal Experience of the Industry; Scoring Criteria #1 / Sub-factor B: Demonstrated Ability to Work with Other Individuals, Agencies, and Communities; Scoring Criteria #2 / Sub-factor A: Demonstrated Willingness to Protect Wildlife and Habitat Resources; Scoring Criteria #2 / Sub-factor B: Protecting Historical, Cultural, and Archaeological Resources; Scoring Criteria #2 / Sub-factor C: Proven Commitment to Improving the Hunting Industry; Scoring Criteria #2 / Sub-factor D: Stewardship Projects to Complete to Improve the Area; Scoring Criteria #3 / Sub-factor A: Providing Client and Visitor Services in a Safe Manner; Scoring Criteria #3 / Sub-factor B: Providing a Quality Hunting Experience; Scoring Criteria #3 / Sub-factor C:

Business Plan that Encourages Cooperation with Local Communities; Scoring Criteria #3 / Sub-factor D: Operations Plan for all Facets of the Business; Scoring Criteria #4 / Sub-factor A: Available Funds; Scoring Criteria #4 / Sub-factor B: Revenue; Scoring Criteria #5 Violations/Citations/Convictions/Defaults

Comment Summary Statement: Commenters provided comments on the Scoring Criteria.

Response: Thank you to everyone for your comments on the proposed Scoring Criteria. We have reviewed and extensively re-written the proposed Scoring Criteria. Our review process included consideration of the public comments we received, review of other similar agency programs from the US Fish and Wildlife Service and National Park Service in Alaska, and discussions with other state ADF&G and federal (USFWS, NPS, BLM) agency personnel. Many of your comments resulted in direct changes to the criteria and we encourage you to review the new criteria and provide feedback during the next public comment period.

Number of Commenters (letters): 362

(98) Topic/Issue: Suggested Alternatives / APHA Proposed Program

Comment Summary Statement: Commenter noted that DMLW should consider the proposed APHA program as an alternative to the GCP.

Response: Thank you for your comment. DMLW has reviewed all of the public comments and has incorporated many of the ideas presented into the current proposed GCP. DMLW encourages the public to review the GCP Proposed Decision and supporting documents and provide comments again.

Number of Commenters (letters): 1

(99) Topic/Issue: Suggested Alternatives / Buy Out of Guide Operations

Comment Summary Statement: Commenter suggested that DMLW consider buying out some guide operations in lieu of spending more state money in legal court fees during appeal process.

Response: Thank you for your comment. DMLW will not be buying out any operations. Improvements that have been previously permitted on state land such as cabins or other infrastructure will be subject to the terms and stipulations of the existing authorizations. In the event that the owner of improvements does not win a concession, the owner will be responsible for the disposition of the improvements according to the existing permit or lease terms or may have to change their activities to another authorized use that is not big game guiding.

Number of Commenters (letters): 1

(100) Topic/Issue: Suggested Alternatives / Limit Allowable Harvest for Guides

Comment Summary Statement: Commenters suggested that DMLW limit the number of animals each registered guide can harvest. The concession program as it is proposed does not address harvest limits for guides.

Response: Thank you for your comment. DMLW has considered all comments on the alternatives to fully understand the options, impacts of the options, and how the alternative helps meet the resource management and conservation objectives, as well as alleviate social problems. DMLW does not have the statutory authority to limit harvest. This authority resides in the BOG. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed

seasons, areas for taking game, setting bag limits; and regulating methods and means. BOG is also involved with setting policy and direction for the management of the State's wildlife resources. BOG is charged with making game allocation decisions, and ADF&G is responsible for management based on those decisions. BOG's authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99.

Number of Commenters (letters): 16

(101) Topic/Issue:

Transferability of GCA / Add Ability to Transfer GCAs

Comment Summary Statement:

Commenters noted their support in having the ability to transfer GCAs as a way of encouraging sustainability in industry and family guide businesses (guides can retire and transfer business to next generation or sell profitable business).

Response:

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

Number of Commenters (letters): 9

(102) Topic/Issue:

Transferability of GCA / Applicability to *Owsichек*

Comment Summary Statement:

Commenters discussed transferability of GCAs within the *Owsichек* Decision framework. One commenter was opposed to transferability and the other two were in support of transferability.

Response:

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

Number of Commenters (letters): 3

(103) Topic/Issue:

Transferability of GCA / Do Not Allow Transferability

Comment Summary Statement:

Commenters noted that transferability of concession authorizations should not be allowed.

Response:

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

Number of Commenters (letters): 2

