ALASKA STATE LEGISLATURE

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October 5, 2011

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have evaluated the activities of the Big Game Commercial Services Board (board) and the attached report is submitted for your review.

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

September 13, 2011

08-20071-11

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). If not extended by the legislature, the board is required to terminate on June 30, 2012. Under AS 08.03.020, the board will have a one-year period to administratively conclude its affairs.

In our opinion, the board's termination date should be extended. The licensing of qualified guide-outfitters and transporters benefits the public's safety and welfare. We recommend the legislature extend the board's termination date to June 30, 2016.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have evaluated the activities of the Big Game Commercial Services Board (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if the board should be reestablished. Currently, AS 08.03.010(c)(9) specifies that the board will terminate on June 30, 2012. If the legislature does not extend the termination date, the board will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our audit were:

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

The assessment of the board's operations and performance was based on criteria set out in AS 44.66.050(c). Statutory criteria relates to the determination of public need for the board.

Scope and Methodology

The audit evaluated the operations and activities of the board for the period July 1, 2007, through April 30, 2011. The major areas of the audit were board proceedings, licensing activities, licensee complaint investigations, and duplication of efforts by the board compared to other state and/or federal agencies. During the course of the audit, we specifically examined and evaluated:

- Applicable federal regulations and state guide-outfitter/transporter statutes and regulations to identify board functions and responsibilities including board member composition and qualifications. We also identified additions, deletions, and changes to board statutes and regulations to evaluate board actions during the audit period and the effect on board operations.

- Division of Corporations, Business and Professional Licensing (division) policies and procedures related to supporting board activities to assess compliance with regulations and rules.

- Files and documentation related to individuals and businesses licensed as guide-outfitters and transporters to ensure licensees met statute and regulatory requirements. We also inspected hunt records, transporter reports, and hunt contracts to determine compliance with statutory licensing requirements.

- Board meeting minutes and budget documents along with annual and special reports related to or issued by the board to gain an understanding of board proceedings and activities as well as the nature and extent of public input. Additionally, we evaluated the compliance of the reported information to applicable statutes, regulations, and division policy.

- Public notice documentation to ascertain whether public notice for board meetings, examinations, and proposed regulation changes were published as required by statute.

- Newspaper articles during our audit period to identify and verify proper action was taken by the board on any licensees in violation of statutes and regulations and to identify potential issues facing the board.

- Complaints related to guide-outfitters, transporters, and license applicants to assess the timeliness of the investigative process, reasonableness of conclusions, and compliance with the division's investigative procedures. We also inquired of the following organizations to determine if any complaints were filed against the board or its licensees:

  - The division;
  - The Commission for Human Rights;
  - The Office of the Ombudsman;
  - The Office of Victims' Rights;
  - The Office of the Governor;
  - The Department of Administration's Division of Personnel; and
  - The Federal Equal Employment Opportunity Commission.

  All identified complaints were evaluated for reasonableness of disposition.

- Various state and federal websites containing hunt and land use information for potential duplication of and effect on board activities.

- Other audits related to board or division support including the 2007 report, *Department of Community and Economic Development, Division of Occupational Licensing, Guides and Transporters, August 16, 2007*, Audit No. 08-20052-07; and the 2011 report, *Department of Community and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupation Licensing and*

Enforcement Issues, June 29, 2011, Audit No. 08-30063-11, to identify and follow up on previous and existing issues effecting the board.

To identify and evaluate the various issues relating to board activities, we conducted interviews with state and federal agency staff, board members, and other stakeholders. Specific issues of inquiry included board operations, public safety issues, duplication of efforts, and use of hunt record and transporter report information. We also contacted:

- Alaska Professional Hunters Association members;
- Board licensees;
- Big Game Commercial Services Board members;
- Division staff;
- The Department of Public Safety's Division of Wildlife Troopers staff;
- The Department of Natural Resources' Division of Mining, Land, and Water staff;
- Department of Fish and Game staff;
- The Department of Law's Natural Resources Civil Division staff who regularly assist the board with statute and regulatory issues; and
- Federal staff from the United States (U.S.) Forest Service, the U.S Fish and Wildlife Service, and the U.S. Department of the Interior's Bureau of Land Management.

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ORGANIZATION AND FUNCTION

Big Game Commercial Services Board (board)

Under AS 08.54.591, the board consists of nine members. Membership consists of two public members, two currently licensed registered guide-outfitters, two licensed transporters, one member of the Board of Game, and two private landholders. Public members cannot be engaged in the guiding or transporting profession, or have a direct financial interest in the guiding or transporting profession. All members must be Alaskan residents.

The board is responsible for licensing and regulating activities of big game guides and transporters. Guiding involves providing services, equipment, or facilities to a big game hunter in the field. Transporting, which can be provided both by a guide or a separately licensed transporter, is the delivery of big game hunters, their equipment, or harvested animals to, from, or in the field. Alaska Statutes require nonresident United States citizens and nonresident foreign nationals to be accompanied by a licensed guide when hunting big game species in Alaska.[1]

Exhibit 1

Big Game Commercial Services Board Members As of June 30, 2011

Paul Johnson
Chair and Licensed Registered Guide-Outfitter

Kelly Vrem
Licensed Registered Guide-Outfitter

Dirk Nickisch
Transporter

Leif Wilson
Transporter

Raymond Stoney
Private Landholder

Brenda Rebne
Private Landholder

Ted Spraker
Board of Game Member

Don Quarberg
Public Member

Karen Polley
Public Member

Alaska Statute 08.54.600 defines the board's scope of functions. This statute authorizes the board to:

1. Prepare and grade a qualification examination that requires registered guide-outfitter licensee applicants to demonstrate that they are qualified to provide guided and outfitted hunts as well as possess specific knowledge of fishing, hunting, and guiding laws and regulations.

2. Prepare and grade a certification examination for each game management unit (GMU) in which the registered guide-outfitter intends to provide big game hunting services. The exam requires guide-outfitters to demonstrate that they possess knowledge of the terrain, transportation problems, game, and other characteristics of the GMU.

[1]Alaska Statute 16.05.407 – 408.

3. Provide for the administration of registered guide-outfitter examinations at least twice a year.

4. Issue registered guide-outfitter, master guide-outfitter, class-A assistant guide, assistant guide, and transporter licenses. Prior to receiving a new or renewed license, applicants must certify a signed document stating that their right to obtain or exercise the privileges granted by a hunting, guiding, outfitting, or transportation services license is not revoked or suspended in Alaska, another state, or Canada.

5. Impose appropriate disciplinary sanctions on a licensee.

6. Regularly disseminate information regarding examinations and other qualifications for all classes of guide licenses to residents of the rural areas of the State.

7. Adopt procedural and substantive regulations.

8. Meet at least twice annually.

The Department of Commerce, Community, and Economic Development (department)

Alaska Statute 08.01.065 mandates that the department adopt regulations to establish the amount and manner of payment for application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

The department's Division of Corporations, Business and Professional Licensing (division) provides administrative and investigative assistance to the board. This includes functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations, meetings, and proposed regulations.

Alaska Statute 08.01.087 empowers the department to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in or is about to engage in a prohibited professional practice.
2. Issue an order directing the person to stop an act or practice.
3. Bring an action in superior court to enjoin the act.
4. Examine the books and records of an individual.
5. Issue subpoenas for the attendance of witnesses and records.

Licensing examiners within the division administer and grade the written portion of the registered guide-outfitter and game management unit examinations; issue initial and renewal licenses for all types of guide-outfitters and transporters; review and enter the data contained in hunt records and transporter activity reports from guide-outfitter and transporter licensees;

handle requests for information; issue and receive correspondence concerning licensees; refer complaints to the division's Investigation Unit; and provide various board support activities.

On behalf of the board, a division investigator conducts investigations of complaints from guide-outfitter or transporter clients; the public; other guide-outfitters and transporters; licensing examiners; or other state or federal agencies. The investigator refers complaints which are clearly potential criminal violations to an appropriate law enforcement agency.

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REPORT CONCLUSIONS

Regulating and licensing qualified, registered guide-outfitters and transporters benefits the public's safety and welfare as well as safeguards the State's wildlife resources. The Big Game Commercial Services Board (board) has provided reasonable assurance that the individuals licensed to guide and/or outfit hunts as well as transport hunters to and from hunt locations in Alaska are qualified to do so. The board has also successfully developed and adopted regulatory changes to improve the big game commercial services industry in Alaska. In our opinion, the board serves an important public purpose.

In accordance with AS 08.03.010(c)(9), the board is scheduled for termination on June 30, 2012. If no action is taken by the legislature, the board will have one year in which to conclude its administrative operations. We recommend the board's termination date be extended for four years to June 30, 2016. The recommended extension date is half of the eight-year maximum allowed in statute because the Department of Commerce, Community, and Economic Development and the board did not fully address the previous sunset audit's findings and because of other operational support issues identified in this report. Except for these deficiencies, the board has met the various statutory sunset criteria.

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FINDINGS AND RECOMMENDATIONS

Five recommendations were made to the Division of Commercial, Business and Professional Licensing (division) and the Big Game Commercial Services Board (board) in the report. For the most part, prior recommendations were not resolved. Prior Recommendations Nos. 1 through 5 are reiterated in this report along with their current status. One new recommendation is also presented as Recommendation No. 6.

In addition to the recommendations presented in this report, a recently issued report, *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011*, identifies both financial and case investigative issues which have a direct affect on the board.

Recommendation No. 1

The division director should ensure procedures are developed and that division staff adhere to them in order to provide efficient and effective support to the board's day-to-day operations.

Prior Finding

Four processes and procedures that division staff were required to provide were not adequately performed. The specific issues identified were:

- Untimely public notice of exams;
- Untimely and inaccurate meeting minutes;
- License files missing the appropriate documentation; and
- Untimely public notice of regulations.

Of the four prior issues, the last two, licensee files missing the appropriate documentation and untimely public notice of regulations, were resolved. The current status of the remaining two issues as well as five new issues is identified as follows.

Current Status

1. Public notice is not timely or not issued for exams. Of the 24 examinations noticed from July 2007 through April 2011, nine exams did not meet Alaska Statute publication requirements[2] and division policy.[3] Four[4] of the nine examinations were published after

[2]Alaska Statute 44.62.175(a) requires that various notices concerning planned state activities be posted on-line on the Online Public Notice System.
[3]Division Policy No. DOL-7: *Public Notice Timelines* mandates:

the application deadline, and the remaining five were not published on the Online Public Notice System. Failure to publish exam dates in a timely manner potentially prevents applicants from being aware of a scheduled exam and from taking it. The division lacks procedures for licensing examiners to verify that public notices are adequately posted.

2. Public notice was not properly issued for regular board and subcommittee meetings. Of the board meetings held from July 2007 through April 2011, one of 11 board meetings and 17 of 22 subcommittee meetings were not publicly noticed as required by statute or division policy. Statute requires all public notices to be published on the State's Online Public Notice webpage.[5] Furthermore, division policy requires meetings be noticed in one major newspaper.[6] Division staff failed to ensure notices were either published within sufficient time frames, or at all. Failure to adequately publish meeting dates means interested persons may not have adequate notice to attend or participate in board proceedings.

3. The timeliness of meeting minute preparation is uncertain. Of the 11 board meetings held from July 2007 through April 2011, 10 lacked documentation indicating the meeting minutes were drafted according to division policies requiring they be provided to board members within 15 days.[7] While evidence in meeting minutes suggests board members do not receive minutes until the next board meeting, we are unable to conclude if division staff are adhering to policy. Not receiving minutes timely results in board members spending time reviewing minutes during meetings which contributes to inefficient meetings. (See related issue under the following bullet.)

4. It is unclear if board information packets are issued timely. Interviews with board members indicate that board packets are not consistently provided in sufficient time prior to board meetings. Of the 11 meetings conducted between July 2007 and April 2011, only the May 2009 teleconference packet was clearly issued in a timely manner and contained complete documentation. Of the remaining 10, two were not[8] issued timely, and eight board packets did not have documentation indicating their issue date. Although meeting preparation procedures[9] require that all necessary materials be mailed to board members two weeks in advance, the policy is silent concerning documenting the issue date. By mis-prioritizing work efforts, division staff failed to provide board meeting packets in a timely manner for at least two meetings and possibly others. As a result, board members

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(1) Regularly scheduled in-person board meetings in one newspaper of general circulation no later than 10 days before the meeting; … (3) Subcommittee meetings in one newspaper of general circulation no later than 5 days in advance; (4) Examinations; written or practical examinations which are administered through the Division in one newspaper of general circulation no later than 10 days before the examination application deadline.

[4]The exams were in June, September, and December 2008 and in December 2009.

[5]One subcommittee meeting was not published on the Online Public Notice webpage.

[6]One board meeting and 16 subcommittee meetings were not noticed in a major newspaper.

[7]Division policy No. DOL-1: *Procedures for Board Minutes*.

[8]The January 2011 packet was issued one day prior to the meeting, and the March 2011 packet was issued at the meeting.

[9]DOL-3 *Meeting Preparation.*

did not have sufficient time to prepare for board meetings. Therefore, members reviewed information during the meeting which potentially hampered the board's efficiency and effectiveness at meetings.

5. License applications over 12 months in process are not consistently treated as abandoned. Regulations 12 AAC 02.190 requires division staff to send applicants a notice of abandonment after 12 months of inactivity. As of April 30, 2011, 21 licensee applications were not processed as abandoned. Staff do not consistently monitor licensing applicants to identify stale-dated applications, and the division does not have a review process to ensure adherence to regulations. When division staff do not follow through and close abandoned applications, applicants are not alerted that they can request a refund of any prepaid fees.

6. The board's annual reports are incomplete and not published timely. The three annual reports for FY 08 through FY 10 did not contain all of the information required by the division.[10] The missing information included: the number of new and current licensees, the Investigation Unit's statistical reports, board revenues and expenditures, and outstanding sunset audit recommendations. Additionally, two reports were not completed by the August 31st deadline specified in Alaska Statute.[11] The annual report review process was insufficient to ensure all division required information was included. By not providing key performance information in annual reports, interested parties lack critical information about the board's activities.

7. Summary financial and complete investigative data is not consistently provided to the board. Although summary financial information was requested by board members at multiple meetings, the division did not consistently provide the information, and while investigative summaries were provided, they were not complete. The lack of consistent investigation information is largely due to the case management system's reporting issues. (See Recommendation No. 2 for more detail.) However, the reason the division did not provide consistent summaries of financial information is unclear. The lack of important summary information hampers the board's efficiency and effectiveness at board meetings.

Although each individual item by itself may not significantly affect board operations, combined, they hinder the board's ability to effectively and efficiently function in the public's interest. Many items identified were partially due to a lack of follow-through and adherence to regulatory requirements and division-established policy and procedures by staff. Accordingly, we recommend the division director develop policy and procedures where necessary and ensure adherence to statute, regulations as well as policy and procedures by staff supporting board day-to-day operations.

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[10]There are 11 requirements for reports including such items as; cover letter, narrative statement, statistical overview, expenditure report, investigative unit report, etc.

[11]Alaska Statute 08.01.070(10) states that it is the "*administrative duties of the boards*" to "*submit before the end of the fiscal year an annual performance report to the department stating the board's accomplishments, activities, and needs.*"

Recommendation No. 2

The division director should ensure staff adhere to investigative case management procedures and develop additional procedures and reporting tools as necessary.

Prior Finding

The lack of monitoring the status of investigations hampered the effectiveness of board operations. The specific issues identified were:

- Some complaints and investigations were classified as open on the case management information system but should have been reported as closed.
- A complaint was classified as closed when it should have been classified as an open and active investigation.

Of the two prior issues, the last one has been resolved. The current status of the remaining issue along with three new issues is identified as follows.

Current Status

Since the previous audit, the division has implemented a new case management system to manage and report on investigation activities. As noted earlier, a recently issued report, *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professional Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011*, identifies issues with the new case management system which have a direct affect on the board.

Of the 45 cases evaluated (20 closed and 25 open), deficiencies were identified as: incorrect current status, lengthy periods of inactivity on active cases, incorrect case closure, and case files not available. The details concerning the deficiencies are as follows.

1. Status classification on the case management system is not accurate. Of the 45 cases evaluated, seven (16%) had incorrect status classifications in the case management system for an excessive[12] period of time. Specifically, the analysis revealed:

    - Three of 25 (12%) open case files should have been closed on the division's case management system but were not. The cases were already resolved but remained in an open status on the system due to untimely updating of the system.

    - Four of 20 (20%) closed case files remained in open status for an excessive length of time that ranged from five to 24 months after final determinations were

[12]*Excessive time* was based on individual case information, inquiry with investigation staff, and compared to similar types of cases reviewed.

rendered. Generally, the cases were not closed timely due to a lack of follow-through with case closure procedures.[13]

As a result of inaccurate status classification, management reports do not accurately reflect the current status of cases which continue to require investigative resources.

2. The inactivity of case investigations is excessive. Of the 45 cases evaluated, seven (16%) had excessive amounts of time between complaint receipt and investigator assignment or review and action. Specifically, analysis revealed:

   - Two closed cases had almost 19 months between complaint receipt and assignment to an investigator. They were closed due to an inability to investigate after so much time had elapsed.

   - Five open cases had a 15 to 31 month range in which, according to file notes, they were not either reviewed or updated. Failure of timely review was partly due to the board-assigned investigator's large case load.

   Generally, these situations are a result of supervisors' lacking a reliable report system for monitoring case activity. When cases are not reviewed and pursued in a timely manner, there is an increased risk of licensees continuing to operate when their licenses should have been suspended or revoked. This increases the risk to public safety and the State's wildlife resources.

3. Cases are incorrectly closed. One out of 20 closed cases had an incorrect final determination prior to closure. An applicant for a guide license had an outstanding felony, but the determination for closure permitted unconditional renewal for a guide license. The investigation section did not consistently follow its established case closure procedure.[13] Not ensuring final determinations of investigations are reviewed before closure means errors may remain undetected and individuals may gain licensure when they otherwise would not have.

4. Not all case files are available for review. Originally, 27 open case investigations were selected for evaluation; however, two files were not readily available. Staff had mixed multiple-case activities into a much larger case file which made it problematic to identify information related to the specific cases selected. By not maintaining individual case information in an organized, useful manner,[14] investigative staff may make decisions or take actions that they otherwise would not have.

According to AS 08.01.050(a)(19), the Department of Commerce, Community, and Economic Development (department) is responsible for investigating and monitoring

[13]DOL #24: *Investigation Closure Procedure*.
[14]Alaska Statute 08.01.087(a)(2) states that the "*investigative and enforcement powers of department*" are to "*secure information useful in the administration of this chapter*."

occupational licensing complaints. Without available, accurate case management system status reports; appropriate case closure review; and organized case files, investigative staff and the board do not have reliable information to effectively or efficiently manage limited available investigative resources.

We recommend that the division's director ensure staff adhere to investigative case management procedures and develop additional procedures and reporting tools as necessary.

Recommendation No. 3

The division, in conjunction with the board, should increase licensing fees and/or reduce expenditures to mitigate the board's current and projected operating deficit.

Prior Finding

At the end of FY 07, the board had an estimated operating deficit of $62,000. Alaska Statute 08.01.065(c) requires the department to set occupational fees that approximate regulatory costs. While licensing fees were increased in FY 09, the board still has a deficit. This recommendation is not considered resolved.

Current Status

As of June 30, 2011, the board has an operating deficit of approximately $374,000. Contributing factors include increased expenditures for administrative and investigative activities including litigation. Although the licensing fees were increased during the audit period, they were not sufficient to cover the increased expenditures. Without increasing licensing fees and/or reducing expenditures, a deficit will remain. It is highly unlikely the board will cover annual operating costs for FY 12 as required by statute.

To eliminate the deficit, we recommend that the division and the board review current regulatory costs, and increase licensing fees and/or reduce expenditures enough to cover annual operating costs as well as the current deficit.

Recommendation No. 4

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

Prior Finding

Not all types of guide-outfitter licensees are required to maintain a valid first aid card issued by the Red Cross or similar organization for licensure. As a result, public safety is placed at risk by not requiring all guide-outfitter licensee types to provide proof of current first aid

training at the time of initial and renewal of licenses. Therefore, this recommendation is not considered resolved.

Current Status

There are four guide-outfitter licensee types: assistant, Class A assistant, registered, and master. Alaska Statute 08.54.620(a)(3) and AS 08.54.630(a)(3) require Class A assistant and assistant guides to "*possess a current first aid card issued by the Red Cross or a similar organization.*" However, AS 08.54.610 does not require registered or master guides to have proof of certification. Registered and master guides who contract for a guided hunt must be present in the field with the client at least once during the hunt. By not requiring those licensees to possess proof of current first aid, the public's safety is at greater risk – particularly in remote locations.

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

Recommendation No. 5

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

Prior Finding

Staff resources were ill-spent recording historic licensee hunt records/reports into an electronic database. Additionally, the board did not identify an intended use or the stakeholders of that information. This recommendation is not fully resolved. The current status of the recommendation is as follows.

Current Status

Subsequent to the previous recommendation, the division discontinued entering historical report data and began capturing current information from FY 07 forward. However, the board has yet to identify an intended use or specific stakeholders of the information being captured.

Board members believed multiple state and federal agencies have been routinely using the database information for various purposes. Nevertheless, only one state agency and the division's Investigation Unit were identified as consistently accessing the database. Moreover, other agencies allowed access indicated they use it minimally or not at all.

According to AS 08.54.760(a), it is the department's responsibility to collect and maintain licensees' required records and reports, but statute is silent on what format the information

should be maintained. Additionally, AS 08.54.760(b) states that data compilation from reports *may* be included in departmental reports but does not require it. Avoiding waste of resources is a fundamentally good business practice. The board continues to lack a clear understanding of both the use of information and resources required to maintain the database. Furthermore, allocating staff resources to unnecessary data entry interferes with the division accomplishing critical board functions such as those identified in Recommendation No. 1. Data entry costs have also contributed to the financial deficit which will have to be paid by all licensees.

We recommend the board reconsider electronic data accumulation of licensee reports until the following are identified: (1) the concise and clear uses of the information, (2) the specific stakeholders, (3) the timeframe to reasonably complete the work on a routine basis, and (4) the costs associated with the data collection and maintenance of the database.

Recommendation No. 6

The division director should ensure controls over the database security of hunt records and the physical custody of hunt records and transporter reports are adequate.

The division does not have adequate security in place to limit access to confidential[15] hunt records/reports by only authorized users. These records are in both electronic and physical formats. The electronic database contains details from the paper reports, submitted by licensees, and keyed into a unique database. The board delegated the creation, maintenance, and security of the report database to the division.

Division staff tasked with assigning security access lack the technical knowledge to ensure adequate security controls[16] are in place to limit access. The database is not routinely monitored to ensure only authorized users have access. Additionally, the division has no policy or procedure to ensure the files are physically secured.

This represents a significant deficiency in security controls over confidential hunt records/reports and transporter reports. Accordingly, we recommend the division director ensure controls are adequate over the database security of hunt records and the physical custody of hunt records and transporter reports. Additionally, staff with appropriate technical IT knowledge should be included in developing processes for permitting access to confidential electronic information.

[15]Alaska Statute 08.54.760 *Hunt Records; Confidentiality of Hunt Records and Activity Reports.*
[16]*State of Alaska, Information Security Policy ISP 171: Identity Management*.

ANALYSIS OF PUBLIC NEED

The following analysis of the Big Game Commercial Services Board (board) activities relates to the public need factors defined in the "sunset" law, AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of the audit.

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

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

The board has issued licenses in a uniform manner, held mandated meetings, and administered examinations in accordance with statutory requirements. During the audit period, the board expanded and clarified regulatory requirements for licensing both guides and transporters. The board clarified terminology concerning compensation and guide use areas. Additionally, the board enhanced regulations over client contract requirements for registered guide-outfitters. As of April 30, 2011, the board had 1,748 licensed guide-outfitters and transporters. (See Exhibit 3 on page 25.)

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

Board Finances

The board's revenue is derived from exams, licensing, and renewal fees. Renewals are conducted on a biennial basis with fees due during even-numbered fiscal years. This creates a two-year cycle in the board's revenues with the board receiving most of its revenues during even-numbered fiscal years. We examined the Division of Commercial, Business and Professional Licensing's (division) internal records and obtained a summary schedule of the board's revenues and expenditures. As part of the internal records assessed, we analyzed the division's indirect costs allocated to the board.[17] Except for a limited-detail evaluation of indirect costs, we did not audit this information but present Exhibit 2 (following page) as a summary schedule for general information purposes

[17]A special audit report, *Department of Commerce, Community, and Economic Development; Division of Corporations, Business and Professionals Licensing; Select Occupational Licensing and Enforcement Issues, June 29, 2011*, identified indirect cost allocation methodologies used by the division needed significant improvement.

Alaska Statute 08.01.065 (c) requires "*that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation*." As shown in Exhibit 2 (below), the board began FY 08 with a financial deficit. Board fees were increased in FY 09; however, the revenues were not sufficient to cover increasing costs. The continuing deficit is partly due to costs associated with investigations and related legal proceedings as well as additional support staff costs associated with data entry of hunt records. (See Recommendation No. 5.) The division should review current regulatory costs, increase licensing fees, and/or reduce expenditures to cover annual operating costs. (See Recommendation No. 3.)

Exhibit 2

State of Alaska
Board of Big Game Commercial Services
Schedule of Revenues and Expenditures
As of June 30, 2011
FY 08 - FY 11
(Unaudited)

	FY 08	FY 09	FY 10	FY 11
Revenue	$ 687,855	$127,718	$ 662,433	$ 165,998
Direct Expenses:				
Personal Services	219,313	245,861	252,492	271,604
Travel	17,535	18,090	17,551	22,746
Contractual	29,236	187,909	93,977	98,429
Supplies	1,417	8,843	5,466	719
Total Direct Expenses	267,501	460,703	369,486	393,498
Indirect Expenses	145,211	98,695	124,936	96,268
Total Expenses	412,712	559,398	494,422	489,766
Annual Surplus (Deficit)	$275,143	($431,680)	$168,011	($323,768)
Beginning Cumulative:				
Surplus (Deficit)	(62,036)	213,107	(218,573)	(50,562)
Ending Cumulative:				
Surplus (Deficit)	$213,107	($218,573)	($50,562)	($374,330)

Source: Division of Corporations, Business and Professional Licensing

Division Support Activities

The division's activities have not efficiently and effectively supported board needs as mandated by AS 08.01.050 and AS 08.01.087. Several activities identified in the previous sunset still need improvement. They relate to untimely notices for exams, untimely meeting minutes, and lack of adherence to investigative case management procedures. (See the discussion in Recommendations Nos. 1 and 2.)

Furthermore, the following new issues were identified:

- Untimely notice for board and subcommittee meetings;
- Untimely issuance of board information packets prior to meetings;
- Licensure applications in process over 12 months not closed;
- Incomplete annual board reports;
- Excessive amounts of time between receipt and assignment of complaints, case resolution and system updates, and long periods of time with no activity on cases;
- Incorrect closure of an investigation;
- Investigation cases not readily available for review; and
- Inadequate security controls over the hunt record database.

(See Recommendation Nos. 1, 2, and 6 for a more detailed discussion of these items.) As a result of the cumulative division support issues, general operations of the board are hampered.

Database Accumulation of Hunt Records and Transporter Reports

The board has continued having division staff perform data entry of all information contained on required hunt records and transporter reports. Although previously recommended, the board has not clearly defined the purpose of the information, including specific stakeholders, and cost associated with the data collection and maintenance of the database. The benefit versus cost is questionable and results in an inefficient use of limited board resources. (See Recommendation No. 5.)

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

The board continues to promote changes to statutes and regulations as deemed necessary to improve the general benefit to the public's interest in areas such as clarification of terminology of game management units and compensation, improved game management unit exams, and enhanced licensing requirements to ensure guide and transporter standards are clearly defined. Additionally, the board added requirements for species-specific licensing and authorized two assistant guide training programs to address the current industry needs by ensuring new licensees gain practical knowledge for guiding.

One area the board has unsuccessfully attempted to address is the improvement of statutory and regulatory requirements for transporter licensing. Current language is vague and permits a guide whose license is suspended or revoked to continue to operate as a transporter within the profession.

Additionally, the prior sunset audit pointed out inconsistencies over first aid requirements between the four guide licensing levels. The board has not yet addressed this issue. (See Recommendation No. 4.)

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

Alaska Statute requires the board to publish its prospective regulation changes, meeting and examination dates, times, and locations on the State's Online Public Notice System. The board also publishes meeting, examination dates and exam application deadlines in the *Anchorage Daily News.*

Public notices were not posted to the online notification system for 5 of 24 examinations held, and an additional four examination notices were posted after the application deadline had passed. Furthermore, 1 of 11 board meetings[18] and 16 of 22 subcommittee meetings were published late or not published at all in the newspaper. (See Recommendation No.1.)

The board has encouraged public participation and designated a public comment period in the meeting agenda for every regular board meeting. During FY 08 through FY 11, interested persons offered comments at all eight regular meetings.

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

Notice of proposed regulation changes were posted on the State's Online Public Notice System and in the *Anchorage Daily News.* Detailed instructions for submitting public comments were included in the postings. The board reviewed and considered public comment before adopting new regulations. The public also had the opportunity for public input during subcommittee meetings held from FY 08 through FY 11.

[18]Eight board meetings were held in public locations, and three were held via teleconference.

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

From July 2007 through April of 2011, the division's Investigative Unit handled 371 cases related to guides and transporter licensees and applicants for licensure. As of April 30, 2011, 216 of 371 cases were closed and 155 were still open. However, due to the conversion to the new case management information system, reliable summary statistics of investigative cases is not available.

Additionally, 7 of 45 (16%) cases evaluated had excessive amounts of time between complaint receipt and investigator assignment and between review, action, and/or closure in the case management system. (See Recommendation No. 2.) Although issues exist with the timeliness of some investigations, given the limited investigative staff resources, the more severe complaints and concerns were generally handled in an appropriate manner.

There were no complaints filed with the State's Office of the Ombudsman, the Commission for Human Rights, or the Office of Victims Rights against the board.

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

Exhibit 3 illustrates the number of active board licensees as of April 30, 2011.

Exhibit 3

Schedule of Guide-outfitters and Transporters as of April 30, 2011

New Licenses Issued (Excluding Renewals)	***FY 08***	***FY 09***	***FY 10***	***FY 11***	***Current Licenses***
Master Guide	4	2	8	1	108
Registered Guide-Outfitter	17	5	13	11	472
Class-A Assistant Guide-Outfitter	6	5	10	6	125
Assistant Guide-Outfitter	50	52	79	50	852
Transporter	16	14	23	20	191
Totals	93	78	133	88	1,748

The application process and required documentary support for licensing is reasonable and appropriate. Each applicant is required to satisfy the requirements for licensing. The licensing process is neither unduly restrictive nor too lenient. However, one inconsistency in the licensing requirement relates to not requiring first aid certification by the registered and master guide-outfitter licensees. (See Recommendation No. 4.)

Our evaluation of licensee files did not identify significant issues with the division's board-delegated responsibility of issuing new and renewed licenses.

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

We found no evidence that the board did not comply with state personnel practices, including affirmative action.

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

Compliance with statutory requirements is critical to the board's success in serving the public's interest. The previous sunset audit identified instances of noncompliance that have not been adequately addressed by division staff (discussed in Recommendation No. 1). Additionally, the board has not addressed suggested regulatory changes or continued accumulation of data from hunt records. (See Recommendation Nos. 4 and 5, respectively.)

Furthermore, as discussed in Recommendations Nos. 1, 2, and 6, administrative support provided by the division's professional licensing section was not accurate, timely, comprehensive, or consistent. The administrative staff should provide the necessary and required information so that the board can perform it functions and serve the public's interest effectively and efficiently.

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

Except for deficiencies already discussed, the board successfully met its goals and objectives in an efficient manner.

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

We found that the board's activities are not duplicated by another governmental agency, including either state and federal agencies, or the private sector. Furthermore, the statutorily

required hunt records and transporters reports were not identified as generally duplicative of other state agencies' required post hunt and transport reports.

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STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT
Office of the Commissioner

Sean Parnell, Governor
Susan K. Bell, Commissioner

RECEIVED
NOV 07 2011
LEGISLATIVE AUDIT

November 7, 2011

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

Re: Preliminary Audit Report, Department of Commerce, Community, and Economic Development (DCCED); Division of Corporations, Business and Professional Licensing (CBPL); Big Game Commercial Services Board (BGCSB or board), September 13, 2011

Dear Ms. Davidson:

Thank you for the preliminary audit report regarding the Big Game Commercial Services Board sunset audit conclusions and recommendations. I appreciate your review and the opportunity to respond to the recommendations.

First, it is important to note that a new CBPL Director was appointed June 28, 2010, and key division positions were restructured with new incumbents over the past year. Under this intensive top-down management effort, it quickly became apparent that a multitude of significant issues exist within the division. During this past year, the new CBPL team has triaged critical areas and is continuing to work on a long-term strategy to correct historical practices and strengthen the division. The new CBPL management team is committed to correcting the long-standing issues and to ensure quality processes and information.

Noted in this preliminary audit report is the BGCSB's historical record of unaddressed issues, including five issues from the board's 2007 sunset audit. The division is taking action on the historical audit issues within its purview. It is noteworthy that the current audit reiterated several issues that the new CBPL management team has already identified and were taking corrective actions on prior to the audit.

The department's comments on the audit recommendations are noted below.

Recommendation No. 1

CBPL management acknowledges the need for improved controls to ensure timely and accurate completion of division procedures. As part of the new management team's recognition of the historical absence of effective systems across several of the division's work units, new methods of organizing, tracking, and evaluating program activity are being implemented.

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These new internal protocols will immediately improve the issues identified under Recommendation No.1, Current Status 1-6. Examples of these controls include:

a) Coordinating staff responsibilities to better articulate expectations set forth in statute, regulation, or policy. Currently, two examiners share the workload for the Big Game Commercial Services Board, resulting in a greater likelihood of misunderstanding regarding work assignments relating to the board. Coordinating processes with the division publications specialist will ensure checks and balances are in place when publicly noticing meetings and exams. The supervisor will be expected to set follow-up timelines to ensure items identified in the audit are being addressed.

   This course of action may also include revising existing policies and procedures to include greater detail or clarity, formalizing specific procedures in desk manuals, and providing additional training. Efforts in these areas are already being made across all professional licensing programs.

b) Work aids, such as checklists and calendar reminders, to assist the examiners in achieving timeliness and accuracy in all noted areas.

c) Establishing best practices for publishing meeting minutes so pertinent information is captured, but not necessarily in transcript form. Because this board has an exceptional public turnout at most meetings, exhaustively transcribing the public comment and board discussion sections can result in days of work for the examiner. This practice is in opposition with standards in Robert's Rules of Order and is indicative of the need for greater board and staff training. Such training is already being developed by division management.

d) Additional board training, including:

   i. Articulation of legal and procedural deadlines for meeting preparation. Due to the nature of this profession, staff is frequently unable to contact board members and often receives agenda items and documents for deliberation too close to the meeting to ensure timely packet publication.

   ii. Articulation of the board's responsibility to publish a timely annual report. The division disagrees that the submission of the board's annual performance report rests solely on the shoulders of staff. According to AS 08.01.070(10), this is the responsibility of the board. Per CBPL policy #29, the policy-level information contained in the report is drafted by the board and submitted to staff for formatting and publication. The division recognizes the absence of complete reporting in previous years; however, in FY11, all staff-level reports, including licensing, fiscal and investigative statistics were submitted timely.

CBPL management has actively worked to increase staff capacity in the areas of financial and investigative reporting. A new administrative officer was hired since the audit fieldwork, and her attention to detail has already resulted in improvements in accurate and timely provision of board financial reports. It is the expectation of division management that reports will be included timely in each board packet and that the administrative officer will be telephonically available during the financial agenda item of each board meeting to provide further detail and explanation, if requested by the board.

Recommendation No. 2

CBPL management agrees that investigative staff need to adhere to case management procedures and develop additional procedures and reporting tools as necessary. The investigative case management issue described in the BGCSB sunset audit is similar to the issues raised in a special 2011 State Medical Board (SMB) audit. Management believes that fixes to those issues raised in the special SMB audit will also resolve the investigations case management issues as outlined in this audit report. Therefore, we repeat what we have formerly said is our course of action to fix these issues.

First, an overall detailed management plan with role assignment and timelines is being developed to address the various issues identified over the past year by the new CBPL management team or Legislative Audit.

Second, Investigator responsibility was restructured to require that experienced senior Investigators have oversight for the proper handling of intakes, complaints, investigations and hearings. This senior team is responsible to assess individual investigator caseload, adjust assignments or caseload, and induce additional accountability over the work product. The increased oversight should help prevent long periods of case inactivity and improve processing time. Further, the senior Investigator team is developing policy and procedures for case closure timelines, and updating a Desk Manual to ensure uniform and efficient case processing.

Third, a caseload standard is also under review to determine the optimum number of cases per Investigator. For FY11, 1,120 requests were received from the public or licensees for review of determination of jurisdiction or evidence of a statutory or regulatory violation. This averaged 70 cases per Investigator, whereas the preliminary optimum number is considered about 45. This situation warrants, and is receiving, further review.

Fourth, the database issues referenced in the preliminary audit report are part of a larger project to remediate the Investigations system. These system issues were previously identified by the department and in a recent Legislative Audit. To address this situation, CBPL has commenced discussions with the database vendor, is pursuing a project manager through the state IT task order system to oversee the remediation effort, and is designating a user team with a priority focus on this project.

Fifth, procurement of additional highly qualified Investigator resources is under consideration to oversee an intensive, consistent management effort to correct long-standing issues and ensure quality processes are in place.

Recommendation No. 3

We concur that the board's current and projected operating deficits should be mitigated through increased licensing fees and/or reduced expenditures. The division is committed to adhering to its obligations set forth in AS 08.01.065 requiring the establishment of fees to approximate the regulatory costs of the occupation, and has already started corrective actions toward this end. The division has engaged the Division of Administrative Services to assist in identifying fee analysis issues, provide standard reports on expenditures and revenues, and develop a reliable fee setting methodology. An analysis of the expenditures and revenues for all Boards is underway.

As a result of analysis, a regulation to increase fees and eliminate the deficit for the Big Game Commercial Services Board was proposed in September. Considerable public comment has been received; however, a final decision on the fee has not yet been made. In addition, CBPL has initiated internal scrutiny of board and staff expenses. This focus on internal fiscal responsibility is a priority of management throughout all programs managed by the division.

Recommendation No. 4

DCCED concurs that modifying the regulatory first aid requirements to provide consistency between guide-outfitter licensee types is an issue for board consideration. To assist the board, CBPL will provide the board with draft regulations on first aid requirements for consideration at the December meeting.

Recommendation No. 5

We concur that the electronic accumulation of information from hunt records and transporter reports should be reconsidered. The prior CBPL management deemed electronic accumulation of this data a critical priority for this department and other users, and established the database with intent to charge other users. It has become apparent, under new CBPL management and this audit, that there is a need to review the business requirements and the cost/benefit of this system. An internal project team will be formed to determine the (1) uses of the information, (2) the stakeholders, and (3) the cost associated with data collection, data entry, and maintenance of the database. In addition, this topic will be drafted for board consideration at their December meeting.

Recommendation No. 6

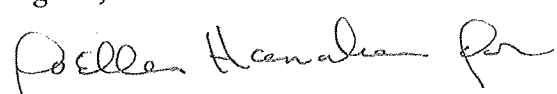
CBPL agrees that additional measures are needed to ensure electronic and physical security of hunt records and transporter reports. As noted in the above Recommendation No. 5, an internal project team will be formed to reassess the business requirements for the electronic records database. A security review will be one of the issues addressed. Specifically under consideration, is restricting to an IP address and issuing individual user passwords. In addition, options will be considered to address the security hole that allows manipulation of an URL to gain access to other reports once a document is brought up on the web. We do want to note, however, that this issue is not a firewall issue and that the database and its reports are protected behind the State firewall.

Conclusion

The issues identified in this audit are a continuation of the multitude of issues presented in other recent audits and in prior years. Due to the magnitude and pervasiveness of these issues CBPL will be developing a long-term strategy that prioritizes the corrective actions and timelines. In closing, I want to reiterate that the new CBPL management team is committed to implementing the needed improvements that will provide appropriate processes and quality information in support of the BGCSB and all of the CBPL boards and commissions.

Again, thank you for the opportunity to respond to the preliminary audit report recommendations. I want to note the department's appreciation for the professionalism of the audit team throughout this audit. If you have any additional questions please contact me at 465-2500.

Regards,



Susan K. Bell
Commissioner

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Mr. Paul E. Johnson
Chair
Big Game Commercial Service Board
Gull Cove Lodge
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RECEIVED
OCT 19 2011
LEGISLATIVE AUDIT

Dear Commissioner Bell:

I appreciate the opportunity to address the Legislative Budget and Audit report on the activities of the Big Game Commercial Services Board.

First, I want to list some of the board's achievements in the last four years that I believe merit recognition. They are as follows:

1.Completion of mew digitized area maps for increases and better utilization by the commercial guiding community and resource managers.

2. Publication of the board's rules and regulations in a concise field guide for the benefit of both hunters and guides.

3. Revision and upgrade of all tests for license applicants.

4. Establishment of an active continuing education program for guides, transporters, license applicants, and public safety Personnel.

5. Reduction a large citation case load accumulated in part from a 10 year absence of board jurisdiction and control.

There are three concerns that I believe impede the board's efficiency and effectiveness. They are as follows:

1. The department's inability to account for the expenditure of board funds in a timely fashion hampers the board's desire to exercise budget discipline for its operations.

2. The department's non-response to board request for termination of an investigation or a hearing proceeding for a matter that in the board's view is inconsequential or without merit is wasteful in time and expense of the board's resources.

3. The inability of the department to collect funds from other government agencies using the services of the board restricts access to available funding that would support and improve the board's operations.

4. The audit again shows that the board did not make the same requirements on first aid the same for all guide lic. It is a statute requirement for some but not for reg. and master Guides. Some feel its just another agency that one sends a First Aid Card to since they have it anyway ie: other agency require it.

I appreciate the legislative attention that the sunset review of the board's activities affords. It is and opportunity to make improvements which will increase the vitality and importance of the commercial guiding industry and Transporters to State's economy.

Sincerely,

Paul Johnson, Chair

Paul Johnson

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Audit

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November 16, 2011

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Commerce, Community, and Economic Development's response to this audit and offer the following as a point of clarification.

Recommendation No. 1, part 6, of the report states that two annual reports were not completed by the required deadline. However, in fact, one report did not meet the deadline, but the other lacked sufficient documentation to determine when it was completed.

We reaffirm our recommendation that the division director should ensure procedures are developed and that division staff adhere to them in order to provide efficient and effective support to the board's day-to-day operations.

Sincerely,

Pat Davidson, CPA
Legislative Auditor