

Big Game Commercial Services

The Contracting Guide





MEMORANDUM

DATE: February 25, 2015

TO: Big Game Commercial Services Board

THROUGH: Angela R. Birt, Chief Investigator

FROM: Lee R. Strout, Jr., Investigator

RE: Clarification of Contract Statutes and Regulations

The following product was developed by the Division of Corporations, Business and Professional Licensing (DCBPL), at the request of the Big Game Commercial Services (BGCS) Board. It was created to provide Members of the Industry unequivocal guidance on an area of the BGCS Statutes and Regulations.

The information found within this document was taken directly from the BGCS Statutes and Regulations, effective October 2014.¹ It is intended to simplify and clarify the process described; however, by no means is it intended to be all inclusive and/or replace the need for a licensee to be knowledgeable of, and responsible for, the BGCS Statutes and Regulations in their entirety.

¹ AS 08.54 and 12 AAC 75

Alaska Statutes provide that in order to provide Big Game Hunting Services (“Guided Hunt”) for compensation; a person must be a licensed Master Guide-Outfitter or Registered Guide-Outfitter (“Guide” for the purpose of this document). Contracts with more than one Guide’s name (representing to be the contracting guide) and/or only a business name (representing to be the contracting guide) are not valid contracts under the law.

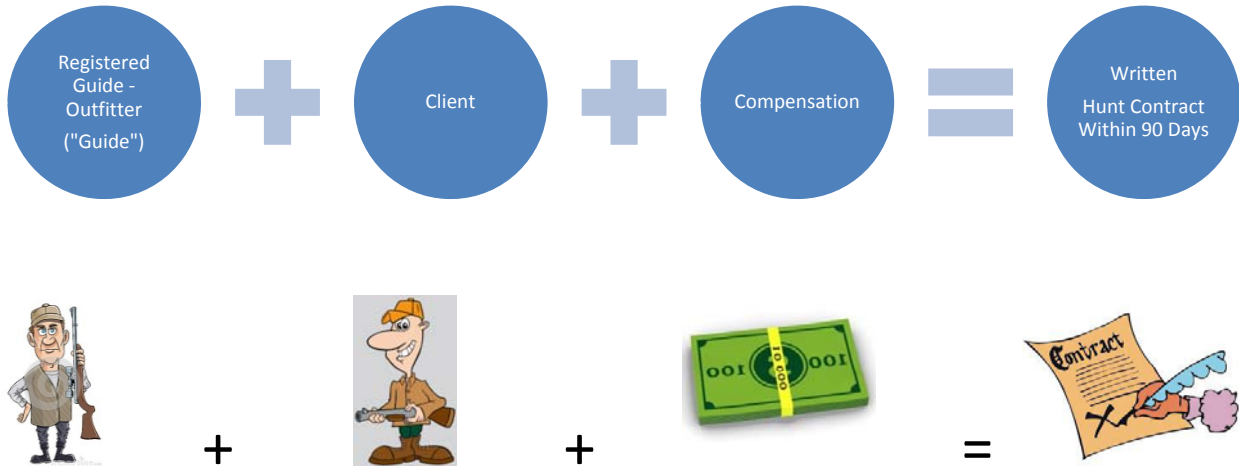
- The Guide who agrees to take a client on a Guided Hunt must provide the client a “written” contract, within 90 days of receipt of compensation, or before the Guided Hunt begins (whichever is earlier). The Guide who enters into a written contract for a Guided Hunt is referred to in statute and regulation as the “Contracting Guide.” **12 AAC 75.260(a) provides the written contract shall be delivered to the client within 90 days of receipt for a deposit, or before services are provided, whichever is earlier.**
- The Contracting Guide must be registered within a Guide Use Area (“GUA”) for which the guided hunt is to take place, and that registration must occur at least 30 days before the guided hunt begins. **AS 08.54.750(a) provides that at least 30 days before conducting a big game hunting services, the Registered Guide must register for the use area he intends on providing the services in.**
- The Contracting Guide must complete the required portion of the Hunt Record at different stages of the hunt. **12 AAC 75.210(b) provides that before a hunt, a registered guide who contracts to guide, transport or outfit a hunt shall complete or have completed the portions of the Hunt Record form that are required to be completed before a hunt.**

The Board recognizes that emergencies arise and developed this document to advise guides on how to remain compliant with the law. In the event that a Contracting Guide cannot provide the Guided Hunt that was contracted for there are several options to remain in compliance with the law:

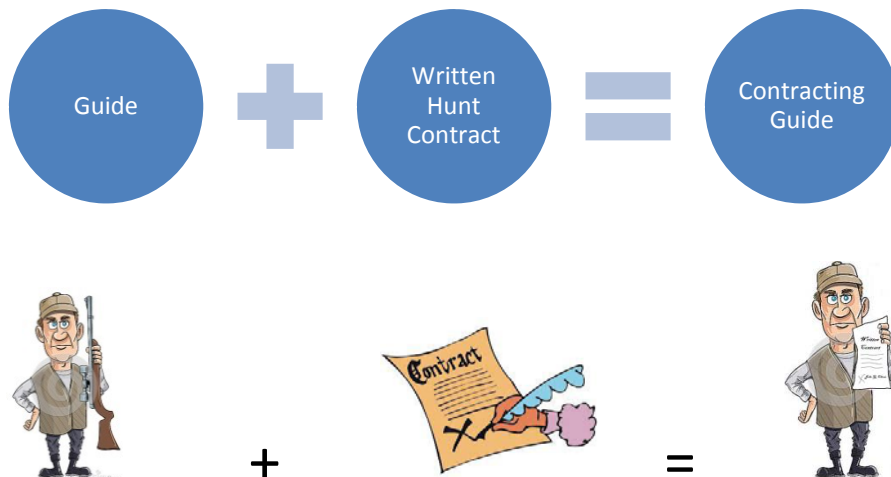
1. Cancel the hunt and refund any compensation paid according to the “written” contract.
2. If the Contracting Guide and the Client agree on an alternative Guided Hunt, then a new written contract must be written detailing the provision of that hunt. (Example, Mr. Smith originally contracts to hunt sheep, but the sheep hunting area unexpectedly closed and Mr. Smith agrees to hunt bear instead.)
3. Transfer the client to another Guide who is properly registered in a GUA for which the Guided Hunt is to take place and complete a written Contract between the new Guide and Client. The new guide assumes the responsibilities of the Contracting Guide for the Guided Hunt. At this point, the old written contract becomes null and void.

Big Game Commercial Services

Hunt Contract Process



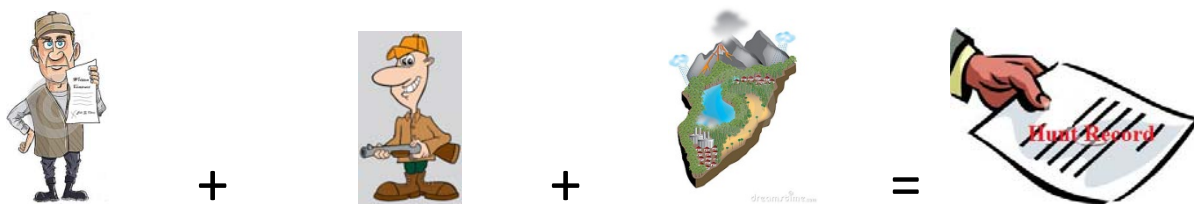
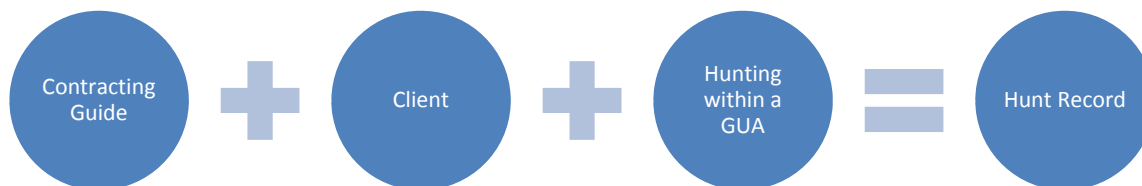
When a Registered Guide ("Guide") and a Client come to an agreement and any or all compensation is paid to the Guide, the Guide has **90 days** to provide the client with a "written" Hunt Contract. **See: AS 08.54.680 and 12 AAC 75.260**



Once the Guide has entered into a written Hunt Contract with the client, the Guide is the "Contracting Guide" and he is responsible for the provision of the Hunt Contract. **See: AS 08.54.610, AS 08.54.620, AS 08.54.630, 12 AAC 75.240, 12 AAC 75.260 12 AAC 75.340**



Before a Contracting Guide can provide a Guided Hunt to a client, he or she must be properly registered for the Guide Use Area (“GUA”) in which the hunt is to take place. A Registered Guide-Outfitter may be registered for up to three different GUA’s at a time, and must complete the registration process **30 days** before providing the guided hunt. **See: AS 08.54.750 and 12 AAC 75.230**

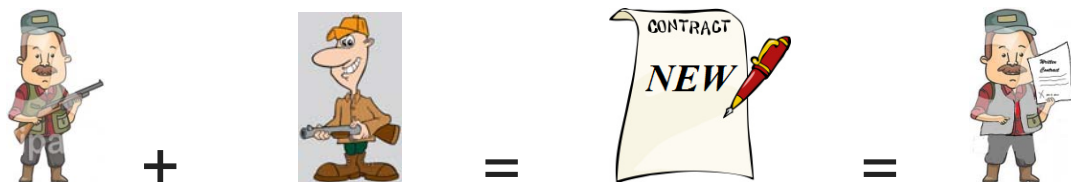
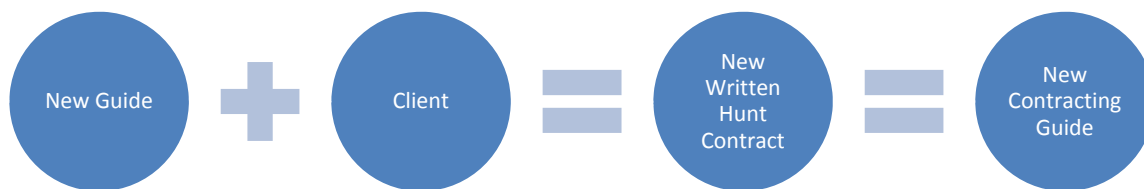


Prior to guiding a client in the field, the Contracting Guide must complete required portions of the Hunt Record. Various portions of the Hunt Record are completed and signed at different stages of the guided hunt. The Contracting Guide must sign the Hunt Record at the end of the Hunt. **See: AS 08.54.760 and 12 AAC 75.210**

What if a Contracting Guide cannot provide the contracted services?



If, for some unforeseen circumstance(s), a Contracting Guide cannot provide the services contracted for, he or she must work with the Client to cancel the hunt and refund as provided for in the written contract, postpone the hunt, or transfer the contracted services to another Qualified Guide.



If the Client desires to be transferred to a new Qualified Guide, to remain compliant with the statutes and regulations, the new Qualified Guide must complete a new written Hunt Contract with the Client. The new qualified Guide assumes full responsibility as the Contracting Guide and the new Hunt Contract.

FREQUENTLY ASKED QUESTIONS:

Q. Can any person or agency book a guided hunt for a Guide?

A. Yes. The use of a “Booking Agent” is a very common and accepted practice in the Guiding industry. Big Game Commercial Services statutes and regulation do not address or prohibit the booking of a hunt by any person or agency. However, upon receipt of compensation (money, whether check, cash or credit card payment), the Guide has 90 days to provide the client with a written contract to the client. At the time the contract is signed, that Guide assumes responsibilities as the “Contracting Guide” and all Alaska statutes and regulations are applicable.

Q. Can a Booking Agent sign the written contract?

A. No. By statute only a Guide can contract to provide Big Game Hunting Services. Contracting a Guided Hunt is by definition providing Big Game Hunting Services. **AS 08.54.680(c) provides that a (singular) registered guide-outfitter may not provide big game commercial services (defined by AS 08.54.790(3)) unless the guide has entered into a “written” contract. A “verbal” contract does not satisfy the statute.**

AS 08.54.750(b)(1) provides that a Registered Guide may not register for or conduct big game hunting services in more than three guide use areas during a calendar year.

Q. Can two or more Guides contract with the same client for the same hunt on the same contract?

A. No. By statute a Guide is “a natural person.” While two or more Guides may own a business or partnership, the statute language is singular and does not provide for shared legal responsibility. **AS 08.54.610(a) provides that only a (singular) natural person can be a Registered Guide-Outfitter.** In instances where two or more Guides desire to share responsibilities with the same client, in order to comply with the statute, each Guide must complete a contract detailing their individual areas of responsibility.

Q. Can a Contracting Guide employ other Guides for the purposes of gaining use of those Guide’s GUA’s?

A. No. To use a new guides, GUA, the new guide must complete a new contract with the Client relieving the original Contracting Guide of all responsibilities and obligations and accepting all responsibilities and obligations. This practice is commonly known as “sub-contracting” or “consolidating” and is not specifically addressed in statute or regulation.

Q. What essential components must my contract contain?

A. In accordance with Alaska Administrative Code **12 AAC 75.260(a)**: A contracting registered guide-outfitter shall deliver a written contract to the client within 90 days after receipt of a deposit, or before services are provided, whichever is earlier.

(b) A contract must

- (1) include the name, license number, and signature of the guide-outfitter, and must include the name of the guide-outfitter's business if it is different from the name of the individual guide-outfitter;
 - (2) include the name and signature of the client;
 - (3) list each big game animal to be hunted, and must identify the primary animal to be hunted;
 - (4) list the approximate times and dates that the client will be in the field;
 - (5) list the number of hunting days and dates for each species, if appropriate;
 - (6) state the cost and payment schedule;
 - (7) state the amount of the trophy fee, if any, and must identify who is responsible for the cost of the license and tags;
 - (8) state the extra transportation cost, if any;
 - (9) include a statement of services provided, including lodging, meals, number of clients per guide, trophy care and shipping, care of meat, and clarification of who is responsible for what;
 - (10) set out the deposit refund or transfer policy upon cancellation;
 - (11) include a statement about compensation for any delay of the client arriving in the field on schedule or for the client departing the field before the contracted hunt ends; and
 - (12) identify who is responsible for private and federal land use fees.
- (c) A registered guide-outfitter shall retain a copy of the contract for at least four years.

Helpful Statutes:

AS 08.54.610(a) A natural person is entitled to a registered guide-outfitter license if the person...

AS 08.54.680(c) On or after January 1, 2006, a registered guide-outfitter may not provide big game hunting services and a transporter may not provide transportation services unless the registered guide-outfitter or transporter has entered into a written contract with the client for the provision of those services. A contract to provide big game hunting services must include at least the following information: the name and guide license number of the registered guide-outfitter, the name of the client, a listing of the big game to be hunted, the approximate time and dates that the client will be in the field, a statement as to what transportation is provided by the registered guide-outfitter, a statement as to whether accommodations and meals in the field are provided by the registered guide-outfitter, and a statement of the amount to be paid for the big game hunting services provided. A contract to provide transportation services must include at least the following information: the name and transporter license number of the transporter, the name of the client, a listing of the big game to be hunted, the approximate time and dates that the client will be in the field, and a statement of the amount to be paid for the transportation services provided. A registered guide-outfitter or transporter shall provide a copy of contracts to provide big game hunting services or transportation service, as appropriate, to the department upon the request of the department. Except as necessary for disciplinary proceedings conducted by the board and as necessary for law enforcement purposes by the Department of Public Safety and the Department of Law, a copy of a contract provided to the department is confidential. The department may provide a copy of contracts in the possession of the department to the Department of Fish and Game or the Department of Natural Resources upon the request of that department if the department receiving the copy agrees to maintain the confidentiality of the contracts.

AS 08.54.750(a) At least 30 days before conducting big game hunting services within a guide use area, a registered guide-outfitter shall inform the department, in person or by registered mail on a registration form provided by the department, that the guide-outfitter will be conducting big game hunting services in the use area. A registered guide-outfitter may not withdraw or amend a guide use area registration during the calendar year in which the registration was submitted to the department.

AS 08.54.760(a) The department shall collect and maintain hunt records provided by a registered guide-outfitter. A registered guide-outfitter shall submit to the department a hunt record for each contracted hunt **within 60 days** after the completion of the hunt. A hunt record must include a list of all big game hunters who used the guiding or outfitting services of the registered guide-outfitter, the number of each big game species taken, and other information required by the board. The department shall provide forms for reporting hunt records.

12 AAC 75.210(b) Before a hunt, a registered guide-outfitter who contracts to guide, transport, or outfit a hunt shall complete or have completed the portions of the hunt record form that are required to be completed before a hunt.

12 AAC 75.260(a) A contracting registered guide-outfitter shall deliver a written contract to the client within 90 days after receipt of a deposit, or before services are provided, whichever is earlier.