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## Protest Decision

**Matter of:** Fresh Air Educators

**Case No.:** 2017-113

**Posting Date:** November 4, 2016

**Contracting Entity:** South Carolina Department of Natural Resources

**Solicitation No.:** 5400012116

**Description:** Hunter & Boater Education Program

### DIGEST

Protest alleging that the solicitation is unduly restrictive is granted. Fresh Air Educators' (FAE) letter of protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

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<sup>1</sup> The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

## BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	09/30/2016
Protest Received	10/12/2016

## ANALYSIS

The South Carolina Department of Natural Resources (DNR) issued this solicitation to secure a Hunter & Boater Education Program under delegation from the Chief Procurement Officer on September 30, 2016. FAE alleges that the solicitation is unduly restrictive in three instances.

The solicitation requires the successful offeror to provide program, data, and resource management for Outdoor Education Programs for the SCDNR Hunter and Boater Education program, to include but not limited to:

- Printed and online curriculum, including student manuals, instructor resources, training videos, and topical supplements,
- Online courses meeting State assessment requirements,
- Existing (off-the-shelf) internet-based registration and event management application that will allow the Agency to manage its educational events online from start to finish.
- Management of new and historic education certifications from all sources with the ability to find and update certification records and issue proof of certification to students.

[Solicitation, Page 17]

FAE protests that including all these services in a single solicitation is “bundling” that restricts competition because some contractors, including FAE, may not be able to offer all of the services required and would be excluded from competing for the contract. Additionally, FAE claims that bundling these services will deny the state access to best-in-class and latest innovative technologies, and will result in higher cost than award to multiple contractors.

The National Association of State Procurement Officials defines bundling as:

The practice of pooling or grouping smaller purchases to leverage purchasing power thus obtaining the benefits of economies of scale or a reduction in administrative expenses.

NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS, STATE AND LOCAL GOVERNMENT PROCUREMENT: A PRACTICAL GUIDE 296 (2008). It cautions, however, that bundling multiple commodities and unrelated services may have severe anti-competitive consequences. Bundled contracts favor large incumbent firms at the expense of smaller businesses; may lead to longer contracts, self-dealing and collusion between prime and subcontractors; and can impair the government's ability to take advantage of new and innovative market products. *Id.* at 28-9. Among the best practices NASPO recommends to ensure adequate competition is not bundling multiple unrelated commodities or services unless it is impossible to obtain the needed product without bundling. *Id.* at 25.

FAE acknowledges that "these four services are related under the umbrellas of outdoor safety education." From reviewing the overall scope of work in the solicitation it is clear that DNR hopes to achieve consistency and uniformity across its live, print, and on-line training courses; and seeks a single "management console" to coordinate its training programs. The decision to bundle these award these services to a single contractor is a decision made by DNR for business reasons. The decision is reasonably based on the Department's analysis of its needs. This issue of protest is denied.

FAE also protests that the solicitation is constructed to replicate in unwarranted detail the content products that are currently delivered by the incumbent print product vendor, including content format, volume, shape, tone and style providing the incumbent an unfair competitive advantage. The solicitation requires in part, the production of a Hunter Education Student Manual, a Boater Education Student Manual, and a boating handbook. The specifications for these manuals are as follows:

Hunter Education Student Manual:

Offeror must be able to produce a hunter education student manual for classroom courses that is specific to South Carolina and meets the International Hunter

Education Association-USA (IHEA-USA) Standards. The Student Manuals must include questions that review the content presented in each chapter. ...

Student Manual: This print product covers the course content that a student needs to know to complete the SCDNR's hunter education certification requirements.

- 121 text pages printed on 50# book stock
- 4 cover pages printed on 70# glossy book stock
- Four-color process CMYK
- Finished Size: 8.375"x 10.75"
- Binding: saddle-stitch

[Solicitation, Page 17]

Boater Education Student Manual:

Offeror must be able to produce a student boater education manual for classroom courses that is specific to South Carolina and meets the National Association of State Boating Law Administrators (NASBLA) Standards. The Student Manuals must include questions that review the content presented in each chapter. ...

Student Manual: This print product covers the course content that a student needs to know to complete the SCDNR's boater education certification requirements.

- 60 text pages printed on 50# book stock
- 4 cover pages printed on 70# glossy book stock
- Four-color process CMYK
- Finished Size: 8.375"x 10.75"
- Binding: saddle-stitch

[Solicitation, Page 18]

Boating Handbook:

Offeror must be able to produce a boating handbook (50 text pages) that is specific to South Carolina that describes the South Carolina Boating Laws and Responsibilities.

There appears no valid reason for specifying the exact number of number of pages each manual must contain. Even if there were, specifying the length in pages without other information that would ordinarily affect pagination such as margins; font type and size creates an ambiguous specification. Regulation 19-445.2140(C) requires:

Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the State. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met.

DNR indicates that these specifications, including the required number of pages, are based on material provided by the incumbent. This does give the incumbent an unfair advantage. This issue of protest is granted.

F AE also protests a requirement in the solicitation requiring scriptwriters, videographers, and on-screen talent in the production of required video materials:

The requirement to use paid actors, scriptwriters and professional videographers goes against prevailing market wisdom for creating successful consumer engagement.

Industry experts agree that video content containing “real people” generated under “normal, everyday” settings is more trusted and more accepted by the SCDNR’s target audience than paid actors.

The requirement is found on pages 17 and 18 of the solicitation as follows:

The video must be produced professionally, employing scriptwriters, videographers, and on-screen talent. The video must be filmed in high definition.

[Solicitation, Pages 17 & 18]

The CPO cannot determine why DNR included this requirement in the specifications. The Code cautions agencies to focus on functional or performance requirements rather than manufacturing or production requirements whenever possible. However, FAE’s complaint does not allege a violation of the Code and consequently this issue of protest is denied.

F AE also raises a concern about a requirement that the online course match the content of the hunter education student manual for classroom courses noting that:

Forcing an online course to “match” the content of a printed product completely ignores and contravenes the interactive and dynamic capabilities provided in an online environment.

Research demonstrates that content consumed online requires different characteristics than those of printed products. To ignore this actually impedes the student's ability to consume, absorb and retain the required information in an online environment.

The solicitation requires:

The Hunter Education on line course must match the content (text and graphics) of the hunter education student manual for classroom courses.

[Solicitation, Page 19]

Again, it is evident that DNR seeks consistency and uniformity across its live, print, and on-line training courses. DNR, not FAE, determines what its needs are.

Regardless of whether the choice is a good one or not, the executive branch alone determines what types and categories of products it needs. *See Protest of Helena Chemical Co.*, Case No. 2001-5 ("what is in the best interest of the State can only be determined by the State").

*Appeal of Petroleum Traders*, Panel Case No. 2006-8. This issue of protest is dismissed.

FAE also protests a requirement in the solicitation, that the offeror's operation center be in the United States, as anticompetitive:

The RFP includes the following unwarranted and overly restrictive domicile requirements:

"The Offeror's operation center, including the hosting services and the home office, shall be located within the United States of America." It also requires that "The Offeror's Customer Service department must be based in the United States."

While SC Code affords preferences to US-based vendors, there are no requirements mandating that a vendor providing the services requested in this RFP be US-domiciled, nor is there a statutory requirement to have these specific hosting and customer service functions geographically located in the US.

In addition to the absence of legal grounds for this restriction, there are no business, technical, or customer service imperatives for preventing non-US companies from providing these services to SC citizens.

It must be noted that nearly all of the US state fish and wildlife agencies partner with and offer Fresh Air Educator's online outdoor safety courses to their citizens. Indeed, the State of South Carolina currently offers BOATERexam.com to its citizens.<sup>2</sup>

This inclusion of this domicile and operations requirement creates an unfair competitive advantage for the current vendor, and by RFP design, the only vendor that could meet the requirements of this solicitation.

The effect of this restriction is to force Fresh Air Educators, the leader of hunter education and boater education in the US, out of business in SC and to prevent the company from competing in the SC marketplace for the foreseeable future.

This is an anti-competitive requirement that unnecessary, unwarranted and ultimately harms the citizens of South Carolina.

This requirement is found in a section of the solicitation setting forth requirements for the offeror's hosting environment as follows:

The Offeror's operation center, including the hosting services and the home office, shall be located within the United States of America.

[Solicitation, Page 25]

There is a similar requirement found under the heading of Security and Privacy Requirements as follows:

The equipment hosting the SCDNR's applications will be located in a physically secure facility in the United States that employs access control measures, such as badges, card key access, or keypad entry systems.

[*Id.* at 26] The solicitation specifically contemplates that the awarded contractor will collect personally identifiable information from citizens, including "name, date of birth, gender, address, phone number, email address, race and county of residence." [*Id.* at 23] It requires offerors to

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<sup>2</sup> FAE is not the current contractor providing these online training for SCDNR. However, according to its web site:

SCDNR will accept any internet based boating safety course approved by National Association of Safe Boating Law Administrators. The course provider is responsible for providing the student with a boating certificate upon successful completion of the course.

<http://www.dnr.sc.gov/education/boated.html> (last viewed 10/19/2016).

demonstrate their “ability to manage student data securely” and to “conform to the accepted industry standard for protecting the cybersecurity of student’s personal information...” [*Id.* at 19] DNR expects the awarded contractor to accept on-line payments via credit cards, and requires compliance with the payment Card Industry’s PCI-DSS security standards. [*Id.* at 26] Given the nature and volume of sensitive information the contractor will be hosting, these requirements are not unduly restrictive and this issue of protest is denied.

### **DECISION**

For the reasons stated above, the protest of Fresh Air Educators is granted. The South Carolina Department of Natural Resources is directed to review and revise the requirements of this solicitation to bring it into compliance with the Code requirement that it not be unduly restrictive.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

# Attachment 1



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Chief Procurement Officer  
Materials Management Office  
State of South Carolina  
1201 Main Street, Suite 600  
Columbia, S.C. 29201

October 12, 2016

By Overnight Courier and by Email to [protest-mmo@mmo.state.sc.us](mailto:protest-mmo@mmo.state.sc.us)

## Protest of Request for Proposal – Solicitation 5400012116 – Issued September 30, 2016

Dear Sir:

Pursuant to South Carolina Code 11-35-4210, this letter serves as a formal protest of the Request for Proposal - Solicitation 5400012116 - Issued September 30, 2016 - Hunter & Boater Education Program for the South Carolina Department of Natural Resources (SCDNR).

- This RFP is constructed in a manner that creates an unfair competitive advantage that benefits only a single vendor.
- This RFP is constructed to force a currently-approved online education course vendor to cease doing business in SC under a de facto exclusive agreement with that single vendor.
- This RFP is constructed to protect that single vendor's access to the outdoor and safety education market in South Carolina and to prohibit future entrants into this marketplace.
- This RFP restricts SC citizens from exercising their freedom to choose amongst products and services that meet existing, and stated, SCDNR requirements through an unwarranted exclusive agreement.

Information detailed below supports each of these points and demonstrates the need to withdraw this solicitation as currently written.

We request that your office review this protest, and the information contained herein, and withdraw Solicitation 5400012116.

We further request that the SCDNR revisit its product and service requirements, as described in this solicitation document. We have recommended a successful and widespread nationally-adopted approach to provision of those products and services as a reasonable and acceptable resolution to this protest.

We look forward to discussing this matter with you and arriving at a suitable solution that provides the best products and services for the citizens of South Carolina and the SCDNR, today and in the future.

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**About Fresh Air Educators**

Fresh Air Educators, Inc., a Canadian corporation based in Ottawa, is a leading partner with more than 50 US and Canadian fish and wildlife agencies to offer comprehensive and engaging online courses to outdoor enthusiasts in their state.

Working closely with those agencies, we develop, deliver, and support more than 125 customized online safety courses that meet both rigorous industry standards and specific state requirements.

Since 1999, we have helped more than 2 million boaters, hunters, ATV riders, and snowmobilers obtain the safety certifications they need to safely, ethically, and legally participate in their favorite outdoor activities.

These certifications issued by Fresh Air Educators on behalf of its state partners are recognized and accepted by every state and provincial fish and wildlife agency in the United States and Canada.

Fresh Air Educators is also an innovator and recognized thought leader in the online education space.

We are a trusted partner with governing groups National Association of Boating Law Administrators (NASBLA) and International Hunter Education (IHEA), and we are playing a leading role in online course modernization efforts to meet demands of today's sophisticated digital consumer.

Our boating safety course – "*BOATERexam.com* – Boating Safety Education Course" is currently approved by the SCDNR and thousands of SC citizens have registered for this course to date since it launched in 2005.

This course satisfies the SCDNR requirement for an online safety course meeting the NASBLA Delivery and Assessment Standards for online courses.

Fresh Air Educators, Inc. is also a leader in the hunter education field.

32 State and Provincial Agencies have approved *HUNTERcourse.com* as a rigorous, interactive online option for preparing aspiring hunter for their time in the field and a lifetime of safe, ethical, and legal hunting.

SCDNR staff have evaluated *HUNTERcourse.com* and have concluded that this course meets the IHEA Standards for online courses.

The SCDNR accepts *HUNTERcourse.com* certifications from all other states, including neighbors North Carolina, Georgia and Florida, as meeting the SC Code requirements for hunter education.

Unfortunately, *HUNTERcourse.com* is not currently available to SC citizens via a state-specific approval by the SCDNR.

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With the SCDNR's move to online-only hunter education courses, we believe this is the perfect time to allow SC citizens the opportunity to experience and learn from Fresh Air Educators' robust and proven-successful online safety education course.

A revision of this RFP is the appropriate process for the SCDNR to approve *HUNTERcourse.com* for SC citizens and to continue approval of *BOATERexam.com*.

### Excessive and Unnecessary Bundling of Products and Services

This RFP unnecessarily bundles four separate products and services and requires them to be provided by a single vendor. These services include:

- Printed hunter and boater education materials and in-person teaching aids;
- Online hunter and boater education courses that meet nationally adopted standards;
- An event management system;
- An online reprint service.

While these four services are related under the umbrella of outdoor safety education, there is no material benefit to SC citizens, or the SCDNR, if these services be created, delivered and supported by a single vendor.

Quite the contrary, SC citizens and the SCDNR would suffer from the bundling of these services under one single vendor.

- Citizens would be deprived of access to nationally-accepted and high-quality online courses that meet SCDNR certification requirements;
- Citizens would be restricted from exercising freedom of choice in determining the best quality and value for themselves and their families;
- Citizen would be prohibited from utilizing nationally-accepted online courses for mandatory certification provided through new digital education platforms within the state.
- SCDNR would be prohibited from adopting the latest innovative technologies and platforms to deliver best-in-class services to its constituents;
- SCDNR would be prohibited from offering new and effective online safety courses from other vendors that will emerge over the five-year term of the proposed agreement.
- SCDNR would be prohibited from engaging in creative and meaningful business relationships from other vendors that would materially increase participation and agency relevancy amongst a new generation of constituents.

Leading experts in system and program design strategies recommend a modular, component architecture blending the best options available at any given time.

Applications, content and processes should be "hot swappable" as new and better options emerge and become available to the SCDNR.

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Data should be "portable," based on a well-defined and documented structure, to ensure integrity and interoperability across multiple platforms and over time.

Price consideration and "discounts" are often used to justify the benefits of a single vendor. It is important to note the following:

- SC citizens pay the fees directly to online vendors for online safety courses, and not the SCDNR. The SCDNR receives no financial benefit from discounts offered to these courses by the vendors.
- While discounted prices have been proven to influence purchase behavior, consumers will also pay higher prices for products and services when they perceive greater value delivered.
- In an open marketplace, consumers are given the choice amongst products that best suit their own personal needs. They benefit from competition.
- Under this current RFP, SC citizens would be forced to pay a non-competitive fee for a single option that may not meet their personal and family needs. They suffer from a lack of competition.
- There are dozens of event management applications available in the open marketplace, including those that offer their services at no charge to the SCDNR.
- This RFP would restrict the SCDNR from leveraging the power and capabilities of these various platforms, not to mention the opportunity to pay \$0 for these services.

**Prejudicial Content and Product Design Requirements**

This RFP has been constructed to replicate in unwarranted detail the content products that are currently delivered by the incumbent print product vendor, including content format, volume, shape, tone and style.

Examples include the following unnecessary, extraneous and onerous requirements:

- The "Student Manual" be exactly 121 pages long;
- The "Student Manual" be exactly 60 pages long;
- The "Boater Handbook" be exactly 50 pages long;
- The (classroom and online course) videos must be professionally produced employing scriptwriters, videographers, and on-screen talent. The videos must be filmed in high definition;
- The Hunter Education online course must match the content (text and graphics) of the hunter education student manual for classroom courses.

The RFP states the following general requirement:

*"Student Manual: This print product covers the course content that a student needs to know to complete the SCDNR's hunter education (and boater education) certification requirements."*

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This specific requirement focuses on "course content."

However, the related deliverables are defined by physical attributes of a printed product and on the status of people, technology and techniques used to create that content.

Both NASBLA and IHEA worked extremely hard to separate online course content from delivery platforms and have adopted nationally recognized and accepted standards for the same. The SCDNR has been an active participant in these discussions and has agreed to adopt, accept and support these organizations' standards.

Neither NASBLA nor IHEA standards require specific page lengths for student manuals nor do they dictate the manner by which the course content is created. There is no demonstrable benefit to SC students to mandate these attributes.

By design, the current vendor enjoys an unfair competitive advantage due to these unnecessary and burdensome content and product design requirements.

Other vendors have acceptable products, content and services that meet SCDNR-required national content and delivery standards, but fail to meet these specific physical attributes.

Forcing these vendors to recreate, retool, re-edit, or reformat their existing products to identically match the incumbent's products puts an undue burden on them to be able to compete in the SC marketplace.

The length of a manual is in no way directly related to the quality and effectiveness of the content contained in that manual.

Forcing an online course to "match" the content of a printed product completely ignores and contravenes the interactive and dynamic capabilities provided in an online environment.

Research demonstrates that content consumed online requires different characteristics than those of printed products. To ignore this actually impedes the student's ability to consume, absorb and retain the required information in an online environment.

Industry experts agree that video content containing "real people" generated under "normal, everyday" settings is more trusted and more accepted by the SCDNR's target audience than paid actors.

The requirement to use paid actors, scriptwriters and professional videographers goes against prevailing market wisdom for creating successful consumer engagement.

### **Unwarranted Business and Technology Requirements**

The RFP includes the following unwarranted and overly restrictive domicile requirements:

*"The Offeror's operation center, including the hosting services and the home office, shall be located within the United States of America." It also requires that "The Offeror's Customer Service department must be based in the United States."*

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While SC Code affords preferences to US-based vendors, there are no requirements mandating that a vendor providing the services requested in this RFP be US-domiciled, nor is there a statutory requirement to have these specific hosting and customer service functions geographically located in the US.

In addition to the absence of legal grounds for this restriction, there are no business, technical, or customer service imperatives for preventing non-US companies from providing these services to SC citizens.

It must be noted that nearly all of the US state fish and wildlife agencies partner with and offer Fresh Air Educator's online outdoor safety courses to their citizens. Indeed, the State of South Carolina currently offers BOATERexam.com to its citizens.

This inclusion of this domicile and operations requirement creates an unfair competitive advantage for the current vendor, and by RFP design, the only vendor that could meet the requirements of this solicitation.

The effect of this restriction is to force Fresh Air Educators, the leader of hunter education and boater education in the US, out of business in SC and to prevent the company from competing in the SC marketplace for the foreseeable future.

This is an anti-competitive requirement that unnecessary, unwarranted and ultimately harms the citizens of South Carolina.

**Conclusions and Recommended Resolution**

As constructed, this RFP restricts necessary and beneficial market competition and gives undue protection and benefits to an existing vendor to the exclusion of equally-qualified vendors and to the detriment of the citizens of South Carolina.

The awarding of a contract based on this RFP stifles innovation, inhibits SCDNR business and citizen participation growth, and fails to deliver an optimum set of products, services and outdoor education courses to those same citizens.

The structure of this RFP creates an unacceptable and unfair competitive advantage for a single vendor, contrary to the underlying purposes and policies of the SC Consolidated Procurement Code and the General Assembly's intent "to foster effective and broad-based competition for public procurement within the free enterprise system."

Based on these facts, this RFP should be withdrawn.

To acquire the products and services outlined in the RFP, and to ensure that SC citizens have the best and most valuable options available today and in the future, we suggest the following approach:

- Unbundle the four services described above and contained in Section 3, Scope of Work/Specification;
- Re-evaluate current and future requirements for each of the four services as separate and discrete products and services;

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- Determine the best approach to acquiring each of those four individual services separately and whether the RFP process is actually required or if there are more suitable options available;
- Evaluate all COTS (Commercial Off-The-Shelf) event management services, especially those services available to the SCDNR at \$0 cost.
- For online hunter education and boater safety courses, we recommend the SCDNR follow the approach many other state fish and wildlife agency have successfully embraced.

This widely-adopted approach will ensure that SC citizens have access to the best possible options and greatest choice of online courses that will prepare them to safely, ethically, responsibly, and legally hunt in South Carolina.

This approach is extremely simple and is very easy to implement and manage. The approach is as follows:

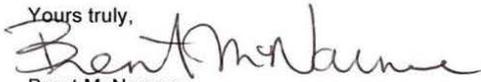
- Identify, approve, and equally promote for use by SC citizens those online boater education courses that meet NASBLA Delivery and Assessment Standards for online courses.
- Identify, approve, and equally promote for use by SC citizens those online hunter education courses that meet IHEA standards.
- Finally, regarding the online reprint service for boater education or hunter education certificates, this requirement is easily met by requiring that approved online course providers make course completion certificates accessible for reprint by students at a reasonable fee.

Thank you for your consideration of this protest.

Fresh Air Educators has been a strong and valuable partner with the SCDNR for over a decade and we sincerely wish to continue that very positive relationship for years to come.

Working together through a renewed and expanded partnership, we believe that we can help the SCDNR achieve our shared objectives. Together we can create the next generation of Conservationists and responsible, ethical and safe outdoor recreationist to perpetuate our hunting and boating heritages in South Carolina.

We look forward to your response to this protest and to working together toward an equitable and appropriate resolution to this matter.

Yours truly,  
  
 Brent McNamee  
 CEO  
 Fresh Air Educators

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**NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS**

November 20, 2005

Colonel Alvin A. Taylor  
 South Carolina Department of Natural Resources  
 Law Enforcement  
 P.O. Box 167  
 Columbia, SC 29202

Dear Colonel Taylor:

The Education Committee of the National Association of State Boating Law Administrators has reviewed and approved the course material for "BoaterExam Boating Safety Certification Course." This course has been presented to include state-specific information for the State of South Carolina. This approval is pursuant to the NASBLA National Boating Education Standards with amendments and updates effective January 1, 2004. This approval is valid through calendar year 2007. Please note that to retain its approval current, this Boaterexam.com course will need to be submitted sometime during calendar year 2007 for an updated review and approval.

Please note that course certificates of completion must include the NASBLA logo as well as the language "Course Approved by the National Association of State Boating Law Administrators" and must identify the state for which the course was presented. Associated with this approval is recognition by the United States Coast Guard that the course is accepted by the National Recreational Boating Safety (RBS) Program. This course may not be presented or marketed as "NASBLA Approved" for a state unless the Boating law Administrator (BLA) for that state has coordinated the inclusion of their state-specific information with you.

Please let me know if you have any questions or need further information. You may contact me at 615-781-6601 or e-mail at [betsy.woods@state.tn.us](mailto:betsy.woods@state.tn.us). Your work in educating the boating public to enhance the safety of our waterways is very much appreciated.

Sincerely,

Betsy Woods  
 Education Committee Chair

Cc: Ms. Gail Kulp, NASBLA  
 Mr. Wayne Stacey, USCG (G-OPB-2)  
 Mr. Kerry Moher, Boaterexam.com ✓

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 www.FreshAirEducators.com | info@freshaireducators.com

FROM SCDNR LAW ENFORCEMENT EDUCATION

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 Nov 10<sup>th</sup> 2005



**National Association of State  
Boating Law Administrators**

**APPLICATION FOR AN ADDITIONAL STATE REVIEW AND APPROVAL  
OF A BOATING SAFETY EDUCATION COURSE**

Course Title: BoaterExam.com Boating Safety Certification Course  
 State of Presentation: South Carolina  
 Course Sponsor/Provider: BoaterExam.com  
 Address: 1566 Carling Ave, Suite 203 Ottawa, ON K1Z 7M4.  
 Contact Person: Kerry Mohr  
 Phone Number: 866-668-2628  
 Fax Number: 866-668-2227  
 E-mail Address: Kerry@boaterexam.com

State of Original NASBLA Approval: Virginia  
 Regional Reviews by: 1. Jeff Decker, VA  
 2. Emily King, OH  
 3. Martin Law, OR

State Approval By:  Approved  Not Approved  
[Signature] 11-9-05  
 State Reviewer or BLA Date

BOATERexam.com | HUNTERcourse.com | ATVCourse.com | SNOWMOBILEcourse.com





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 203-1568 Carling Ave., Ottawa, ON CA K1Z 7M4  
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SCDNR: EDUCATION DEPT

PAGE 02



**National Association of State Boating Law Administrators**

**APPLICATION for REVIEW and APPROVAL or RE-APPROVAL of a BOATING SAFETY EDUCATION COURSE**

OFFICIAL (STATE and NASBLA) USE ONLY

Questions, comments, or concerns about specific course content/text should be directed to the course provider.

NASBLA Review: Gail R Kulp 01/11/08  Meets Standards 1-7 and 9  
 NASBLA Education Director Date  Does Not Meet Standards 1-7 and 9

State Review: [Signature] BLA SOUTH CAROLINA 09-01-08  Meets Standard 8  
 Signature Title State Date  Does Not Meet Standard 8

Additional State Requirements or Restrictions \_\_\_\_\_

Completed application packets and questions regarding the NASBLA National Boating Education Standards may be directed to the NASBLA Education Director (Gail Kulp) at: 1500 Leestown Road, Suite 330, Lexington, KY 40511-2047, Phone: (859) 225-9487 E-mail: [gail@nasbla.org](mailto:gail@nasbla.org)

Note: After original NASBLA review, and satisfactory review by a state, a letter of NASBLA approval will be forwarded to the course provider, the state, and the U.S. Coast Guard Office of Boating Safety. Please contact the respective State Boating Law Administrator (BLA) for acceptance, endorsement, or recognition requirements.

Check the appropriate box for the type of review you are requesting:

Original review request  
 Additional state review (for currently-approved courses)  
 Re-approval request  
 New provider using currently-approved course

Section 1 - course provider

Course Title: THE BOATEREXAM.COM BOATING SAFETY CERTIFICATION COURSE  
 Course Sponsor/Provider: BOATEREXAM AMERICA, INC Contact Person: KERRY M DHER  
 Address: 203-1568 CARLING AVENUE City OTTAWA State ON Zip K1Z 7M4  
 Phone # (313) 722-4769 Fax # (613) 248-5026 E-mail KERRY@BOATEREXAM.COM

Section 2 - course format

Check All that Apply

This course is classroom based.  
 This course is home study.  
 This course is Internet based.

**For review purposes, all submissions must be in a printed format.**

National Association of State Boating Law Administrators  
 Effective June 1, 2007  
 All previous editions are obsolete

BOATERexam.com | HUNTERcourse.com | ATVCourse.com | SNOWMOBILEcourse.com





T 1-877-722-8838 | F 1-877-394-7945  
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**NASBLA**  
**National Association of State Boating Law Administrators**

**APPLICATION for REVIEW and APPROVAL or RE-APPROVAL of a  
 BOATING SAFETY EDUCATION COURSE**

OFFICIAL (STATE and NASBLA) USE ONLY

Questions, comments, or concerns about specific course content/text should be directed to the course provider.

NASBLA Review: David Cook 7/21/14  Meets Standards 1-7 and 9  
 NASBLA Education Director Date  Does Not Meet Standards 1-7 and 9

State Review: [Signature] CAPTAIN SC 1/26/15  Meets Standard 8  
 Signature Title State Date  Does Not Meet Standard 8

Additional State Requirements or Restrictions \_\_\_\_\_  
 Does Not Meet Standard 8

Please make corrections noted in email.

Completed application packets and questions regarding the NASBLA National Boating Education Standards may be directed to NASBLA at: 1648 McGrathiana Parkway, Suite 360 Lexington, KY 40511 Attention: Tom Hayward  
 Phone: 859.225.9487 E-mail: [tom@nasbla.org](mailto:tom@nasbla.org)

Note: After original NASBLA review, and satisfactory review by a state, a letter of NASBLA approval will be forwarded to the course provider, the state, and the U.S. Coast Guard Office of Boating Safety. Course Providers are responsible for contacting the respective State Boating Law Administrator (BLA) for acceptance, endorsement, or recognition requirements and submitting the course to the state(s) for review.

Check the appropriate box for the type of review you are requesting:

- Original review request
- Additional state review (for currently-approved courses)
- Re-approval request
- New provider using currently-approved course

Section 1 - Contact Information

Course Title: BOATERexam.com Boating Safety Education Course  
 Course Sponsor/Provider: BOATERexam.com Contact Person: Kerry Moher  
 Address: 203-1568 CARLING AVE City OTTAWA State ON Zip K1Z7M4  
 Phone # (613) 722-8838 Fax #: \_\_\_\_\_ E-mail KERRY@FRESHAIREDUCATORS.COM

Section 2 - Course Format

Check All that Apply

- This course is classroom based.
- This course is home study.
- This course is Internet based.

For review purposes, all submissions must be in a printed format.

Section 3 - Application Checklist

National Association of State Boating Law Administrators  
 Effective May 1, 2009  
 All previous editions are obsolete

BOATERexam.com | HUNTERcourse.com | ATVcourse.com | SNOWMOBILEcourse.com



**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

*Protest Appeal Notice (Revised November 2016)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

**FILE BY CLOSE OF BUSINESS:** Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

**FILING FEE:** Pursuant to Proviso 111.1 of the 2016 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

**LEGAL REPRESENTATION:** In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1205 Pendleton Street, Suite 473, Columbia, SC 29201**

---

\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

---

1. What is your/your company's monthly income? \_\_\_\_\_

2. What are your/your company's monthly expenses? \_\_\_\_\_

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

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For official use only: \_\_\_\_\_ Fee Waived      \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**