

1979 WL 42725 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 1, 1979

**\*1 RE: Contract to provide services to a private corporation**

Mr. Alfred H. Vang  
State Geographer  
Division of Research and Statistical Services  
South Carolina Budget and Control Board  
Suite 201  
1028 Sumter Street  
Columbia, South Carolina 29201

Dear Mr. Vang:

You have requested an opinion from this Office concerning the legal authority for the Budget and Control Board, Division of Research and Statistical Services, to contract to provide services, specifically computer time and the services of state employees, to a private company.

Generally, it is outside the power of the State to engage in business of a private nature absent an express constitutional provision allowing such activity. 81 A CJS, States, Sec. 37. South Carolina does not have such a provision and, arguably, [Article X, Section II of the Constitution](#) is a specific prohibition of such activity. See also [McCullough v. Brown](#), 41 S.C. 220, 19 S.E. 458 (1893). The only exception to this general rule is when the activity engaged in is authorized by the legislature for a valid public purpose. It is unnecessary to discuss here the nature and extent of the activities which may be authorized by the legislature since there is no legislative authorization for your division to contract to provide such services to a private enterprise. It is, therefore, the opinion of this Office that your division may not contract to provide services to a private corporation.

I hope that this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Katherine W. Hill  
Assistant Attorney General

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