

1976 WL 30438 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 26, 1976

\*1 The Pendleton District Historical and Recreational Commission is not required to open sealed bids on printing contracts in the presence of all bidders nor is it required to award printing contracts to South Carolina firms only.

Mr. Hurley E. Badders

Director Pendleton District Historical and Recreational Commission

QUESTIONS PRESENTED:

1. Is the Pendleton District Historical and Recreational Commission (the Commission) required by law to open sealed bids for printing contracts in the presence of all bidders?
2. Must the Commission award a printing contract to a South Carolina agency only?

AUTHORITIES CITED:

Sections 1-21; 9-751 through 9-754, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended).

DISCUSSION:

The Commission was created in 1966 by Act No. 794.

It has been the Commission's practice to send out invitations to bid on printing jobs to commercial establishments within Anderson, Oconee and Pickens Counties, the three counties of which the district is composed. In certain cases printers within the district were unable to handle the particular job and the Commission consequently went outside the region and/or State to award contracts. The practice of awarding a contract to a firm outside the State has now been questioned.

First, Section 9-752, CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) provides in part:

The Commission may, without regard to the laws and procedures applicable to State agencies, procure supplies, services and property and make contracts . . . (Emphasis added).

This above section exempts the Commission from the printing and State publication laws of Sections 1-501, et seq., CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended) as applicable to State agencies. There is, however, a specific statute in the CODE which requires subdivisions, of which the Commission is one, to give preference to South Carolina business concerns under certain circumstances.

The State Budget and Control Board and all governing officials of the counties, municipalities and other subdivisions of the State, in the conduct of public business entrusted to their care involving the purchase of property for the public account, shall show such preference for equipment, materials and supplies produced or manufactured within the State as may be consistent with the needs, the governing law and the economic advantage of free competition in each case. Section 1-21, CODE OF LAWS OF SOUTH CAROLINA (1962). (Emphasis added).

Assuming arguendo that this section is applicable to the Commission since it is specifically made applicable to subdivisions of the State and is not restricted to State agencies, the Commission has nonetheless complied with the law. Section 1-21 only requires preference to be given to South Carolina products in cases where the needs of the subdivision can be met within the State. From the history of the Commission's past practices furnished this Office, it is apparent that the Commission has followed the dictates of Section 1-21, whether or not it is required to.

\*2 The second question posed is whether or not the Commission is required to open its sealed printing bids in the presence of all bidders. There is no requirement in the CODE that bids on printing contracts be opened in the presence of the bidders.

CONCLUSION:

The Commission is required neither to award all printing contracts to South Carolina firms nor to open such bids in the presence of the bidders.

M. Elizabeth Crum  
Assistant Attorney General

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