

1982 WL 189159 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 8, 1982

*1 William P. Power
Manager
Communications Division
State Development Board
Post Office Box 927
Columbia, South Carolina 29202

Dear Mr. Power:

You have requested the opinion of this Office as to whether the State Development Board may renew its present contract with Cook, Ruef and Associates, Inc. for an additional one year period without submission of the work for bids under the new Consolidated Procurement Code. In our opinion the Board may renew the contract for one year.

This conclusion is based on the following considerations. First, the new Procurement Code does not prohibit contract renewals. Second, the contract with Cook, Ruef and Associates, Inc. was made April 1, 1981, prior to the enactment of the new Procurement Code, and the power of the Board to renew such contract is not affected by the Code. Third, the policy adopted and followed by the Board for many years is to grant a one year renewal to the advertising agency upon satisfactory performance. This policy was understood by the competing bidders when the contract was made. Therefore, if the contract is renewed by the Board no bidder would have valid grounds for objection.

Section 11-35-2030 of the new Code provides that for contracts made after July 30, 1981, 'the terms of the contract and conditions of renewal or extension' must be included in the solicitation. We therefore advise that when bids are next solicited for the advertising contract, prospective bidders must be advised that the contract may be renewed for one year at the option of the Board. This may be accomplished by adding the following sentence to the first paragraph of the contract:

This contract may be renewed by the Client for a period of one additional year upon the same terms, at the option of the Client.

If you have further questions, do not hesitate to call us.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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