

1980 WL 120620 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 22, 1980

***1 Re: Litter Control Act of 1978**

Janie M. Kuemmerer, Dr. P.H.
Director
Office of Program Management
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Dear Dr. Kuemmerer:

You have requested an opinion of this Office as to whether the Department of Health and Environmental Control (hereafter the Department) may provide cash prizes to contest winners pursuant to the Litter Control Act of 1978 ([Section 44-67-10 et seq. of the 1976 Code of Laws of South Carolina](#), as amended). You have also inquired whether the provisions of Section 1-1-440 require bids on such a contract from at least three qualified sources.

As I understand the situation, the Department wishes to contract with a particular school district in Sumter County for an educational and litter removal program related to the Litter Control Act of 1978. The school district proposes to involve students in the development of an educational program by offering cash prizes for such things as the best plan submitted and the best poster developed. In addition, the school district would purchase and distribute litter awareness buttons and bumper stickers. The amount of the proposed contract between the Department and the school district exceeds fifteen hundred dollars (\$1500.00).

A review of the contract provisions indicates that the particular functions proposed appear to be within the intended purposes of the Act, which, furthermore, specifically authorizes the Department to expend funds for the development of such public educational programs. Therefore, it appears that the proposed functions are properly within the purposes of the Act. Accordingly, it appears that the awarding of cash prizes to contest winners pursuant to such a public education program is lawful. See Opinion of this Office to Cecil C. Seigler, dated December 1, 1978.

You have next asked whether such a contract between the Department and the school district would be subject to laws dealing with bid requirements. Section 1-1-440 of the 1976 Code states, in pertinent part:

‘Notwithstanding any other provision of law, all State agencies and departments, before contracting for fifteen hundred dollars or more with private individuals or companies for products or services, shall invite bids on such contract from at least three qualified sources.’ [Emphasis added.]

Since the school district is a body politic and corporate, and, therefore, not a private individual or company as provided by the aforementioned statute, it appears manifestly certain that the bid requirement of that section has no application to a contract between the Department and an individual school district. Section 59-17-10. However, it should be noted that subsequent purchases by the school district from private individuals or companies would appear to be covered by that statute. Nevertheless, since the subject contract is not with a private individual or company, the provisions of Section 1-1-440 do not apply.

***2** I trust the preceding discussion adequately answers your question, however, if any further assistance or explanation is required, please do not hesitate to contact me.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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