

1978 WL 34781 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1978

\*1 Mr. Charles H. Burr  
Director  
Division of Computer Systems Management  
State Budget & Control Board  
P. O. Box 11488  
Columbia, S.C. 29211

Dear Mr. Burr:

This is in response to your letter concerning guidance on the question of whether a contractor (such as Southern Bell Telephone & Telegraph Company) who provides informal technical service and advice in developing a communications systems network might be disqualified in bidding on possible future procurements by the State agency for the equipment to be used in the communications system.

Our research reveals no law or constitutional provision applicable to the question at hand. If all of the parties acted in good faith, there would be no illegality if the contractor provided without cost informal technical advice in the development of a system which included equipment on which the contractor subsequently submitted a competitive bid. Obviously, there exists the potential for abuse if the informal technical advice which is furnished precludes the use of any other equipment other than that which is provided by the contractor furnishing the technical advice. To avoid violating the spirit of the law which requires State agencies to obtain competitive bids, each agency using outside technical assistance in devising data processing, communications systems should avoid the possibility of being 'locked in' to a system offered by the contractor rendering the technical advice. Obviously, obtaining the advice of third-party consultants in such matters wherever possible is preferable, but not legally required.

I hope this provides sufficient information. With kind regards, I remain  
Very truly yours,

Nathan Kaminski, Jr.  
Assistant Attorney General

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