

1975 WL 29363 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 6, 1975

***1 Re: Government Contracts for Professional Services.**

Mr. John Hamilton
Director
S. C. Aeronautics Commission
P. O. Box 1769
Columbia, SC 29202

Dear Mr. Hamilton:

You have asked for an interpretation of Section 18, Part II, Act No. 1136, 1974 S. C. Acts and Joint Resolutions. Section 18 provides:

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.

Provided, however, that the provisions of this section shall not apply to professional services where the person employed is customarily employed on a fee basis rather than by competitive bidding.

The first paragraph is believed to be self-explanatory. A question arises, however, as to what exemptions are intended under the second paragraph. In this respect the term 'professional' is not considered the guide post, as that term has no specific legal definition, but rather is used to describe those many vocations the practice of which require the application of special learning or attainment. See 34 Words and Phrases at 400 (1957). Unquestionably, legal services, medical services and engineering services are 'professional' services. It is equally clear that menial services and services of common laborers are not 'professional' services. However, the middle ground is too poorly defined by the law to permit the construction of any fined definition.

In the opinion of this office, the question as to whether or not Section 18 is applicable can instead be answered by applying a three step test. First consider the question of whether at least \$1500.00 is involved. Second consider the question of whether the services desired require the application of some special learning or ability. Third consider the question of whether that group of persons offering such services customarily submits bids to prospective clients and customers. If the answer to each question is in the affirmative, then bids must be solicited.

Very truly yours,

John B. Grimball
Law Clerk

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