

1975 WL 29504 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1975

***1 RE: The 'Fast-Track' Method of Contracting for Building Construction**

Mr. Phillip M. Grier
University Counsel
University of South Carolina
Columbia, SC 29208

Dear Mr. Grier:

Your letter of January 28, 1975, and Vice President Harold Brunton's letter of January 27, 1975, have been referred to me for answer. In his letter, Vice President Brunton describes the 'fast-track' method of design and construction and request an opinion as to whether the increased use of the resident inspector provided by the project architect would in any way violate Section 10 and Section 18 of the 1974-75 Appropriation Act, Act No. 1136, approved June 28, 1974.

As Vice President Brunton explained in his letter, in the standard method of construction, the architectural agreement calls for the employment of a resident inspector for the project. On a 'fast-track' project, this resident inspection service has to be vastly increased with several additional specialized engineering people working on the site. Vice President Brunton further provides:

... Section 10 and Section 18 of the 1974-75 Appropriation Act specify procedures to be followed in selecting architectural or engineering firms. On the Gambrell Hall Project we followed these procedures in selecting the Serrine Company and we propose to have their service contract include provision for supplying the additional personnel necessary to supervise the 'fast track'. This specialized type of engineering service is also covered in the Standard Architectural Agreement Form.

A question has been raised by Mr. Lawrence P. Hamilton, the State's Chief Engineer, as to whether or not the services of these additional engineering personnel should be obtained either pursuant to Section 10 of to Section 18 of the 1974-75 Appropriation Act.

Part II, Section 18 of the 1974-75 Appropriation Act provides in relevant part:

... 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 engineering services required by the 'fast-track' method are professional services which are exempt from the requirements of Section 18. See: 34 Words and Phrases 'Professional' at 55 (1974) (cumulative supplement); 34 Words and Phrases 'Professional Services' at 401 (1957). Furthermore, the University has selected the Serrine Company to provide architectural services for the Gambrell Hall project and any resident inspectors needed to complete the construction project would be furnished pursuant to the standard architectural agreement entered into the University and Serrine Company. Therefore, the services of all resident inspectors are no more than extensions of the contractual agreement between the Serrine Company and the University. The University does not have to follow the procedures outlined in Section 10 of the 1974-75 Appropriation Act for each additional resident inspector, but may proceed under the standard architectural agreement with the Serrine Company.

Yours very truly,

***2** M. Elizabeth Crum
Assistant Attorney General

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