

1974 WL 27693 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1974

\*1 Honorable Thomas M. Marchant, III  
House of Representatives  
State of South Carolina  
Columbia, South Carolina

Dear Representative Marchant:

Your letter of March 29, 1974, posed four questions involving the authority of the State Budget and Control Board:

1. What authority does the Budget and Control Board have over specific legislative grants for capital improvement, in particularly the grant made to the Medical University of South Carolina?
2. Does the Budget and Control Board have the authority to approve or disapprove proposed contracts made by the Medical University in accordance with the Rules and Regulations promulgated by the Budget and Control Board?
3. Does this authority, if it exists, allow the Budget and Control Board to enter, into negotiations and/or employ architects, engineers and/or contractors not recommended by the Board of Trustees of the Medical University of South Carolina.
4. If there is such authority for either the approval or disapproval of the contract or for the Budget and Control Board to enter into a contract, that the Attorney General set forth the specific legislative authority granting this authority to the Budget and Control Board.

The General Assembly's Act #354 (Appropriation's Bill) was approved by the Governor June 20, 1973. Section 95 of this act provides as follows:

In addition to the powers and duties devolved upon the Budget and Control Board by the 1962 Code of Laws of this State, the said Board is hereby given full power and authority to . . . require that all plans and specifications for permanent improvements of any nature by any State department or institution shall be submitted to the said Board for approval prior to the awarding of any contract therefor, or prior to construction by any other means.

On May 1, 1973, the Budget and Control Board passed certain 'Procedures to be followed by State Agencies in the Selection of Architectural and/or Engineering Firms;' these procedures were revised by the Board on July 10, 1973 (see attachments 'A' and 'B').

Act 354 provides for the approval of plans and specifications for permanent improvements before any contracts are awarded; and the procedures adopted by the Budget and Control Board provide for the designation of a particular firm from a list of three firms submitted by the agency (emphasis added).

We have been unable to locate any statutory authority to the effect that the Budget and Control Board has the power to enter into negotiations and employ architects, engineers, and contractors without the authorization of the state agency or institution involved.

Very truly yours,

W. Davies Merry, III  
Assistant Attorney General

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