

1974 S.C. Op. Atty. Gen. 260 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3848, 1974 WL 21351

Office of the Attorney General

State of South Carolina

Opinion No. 3848

August 29, 1974

*1 The Honorable Rex L. Carter
Speaker of The House
The House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Carter:

In your letter of August 29, 1974, you asked whether or not the House of Representatives is bound by the provisions of Section 18 Part II of the Appropriation Act of 1974, R. No. 1314 July 9, 1974, with regard to the adoption of the Florida Legislative System and the accompanying computer systems needed to implement the Florida System. It is the opinion of this Office that Section 18 Part II of the appropriation Section 18 Part II of the Appropriation Act does not bind Representatives.

The pertinent part of 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. (Emphasis applied). Section 18 Part II R. No. 1314.

The provisions of this Section apply only to 'all State agencies and departments.' The House of Representatives is not a State agency or department and is therefore, not covered under the provisions of this Act. The House of Representatives, in order to be bound by such an Act, must be specifically referred to or the intent to bind the House must appear in the Legislation. Consequently, any time that the House of Representatives enters into a contract itself, the House is not bound by Section 18 Part II. However, if the House enters into a contract through a State agency or department, that department or agency is bound by that bid provision.

Specifically, you questioned whether or not bids must be invited for software packages for the computer system and point out the fact that the systems required for the State computers are manufactured by only one company. As pointed out above, Section 18 requires that bids be invited from 'at least three qualified sources.' To determine legislative intent this Section must be looked at in its entirety. This Office feels that in passing Section 18, the legislature intends to require all State agencies and departments to invite multiple bids when there are qualified sources from which to invite the bids. Where there is only one qualified source from which to invite a bid, the multiple bid situation envisioned by the legislature does not exist; therefore, where there is only one qualified source from which the materials or services can be obtained, bid invitations are not necessary. However, this Office feels that if two qualified sources existed this would be included within the multiple bid situation provided for in Section 18. The requirement of 'at least three qualified sources' simply provides for a minimum number from which bids must be invited in situations where there are three or more qualified sources. Furthermore, this Office is of the opinion that to be invited to submit bids to a State agency or department, the source must be qualified to supply the necessary products or services at the time bids are invited.

*2 Consequently, since the House of Representatives is not covered by the contracting provisions of Section 18 Part II any contract in which it enters into is not subject to the bid requirements of Section 18. Furthermore, in any instance

where there is only one qualified source for the materials or services for which the House is contracting, the House is exempt from the provisions of Section 18.

Very truly yours,

M. Elizabeth Crum
Assistant Attorney General

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