



ALAN WILSON  
ATTORNEY GENERAL

September 19, 2019

Brian D. Lamkin  
Inspector General  
Office of the Inspector General  
111 Executive Center Drive  
Suite 204  
Columbia, South Carolina 29210

Dear Inspector General Lamkin:

We received your letter requesting an opinion of this Office concerning the authority of State Inspector General ("SIG") staff. Specifically, you request an opinion "to clarify the intent of the legislature regarding whether the powers identified in § 1-6-50(A)(1), (2), and (4) may be delegated to, or are inherent in the office of, deputy inspectors general, investigators, and auditors within the Office of the State Inspector General to carry out the duties of the SIG."

#### Law/Analysis

As you cited in your letter, section 1-6-20 of the South Carolina Code (Supp. 2018) establishes the Office of the State Inspector General. Subsection (A) of this provision provides:

There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and a staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

S.C. Code Ann. § 1-6-20(A). Subsection (B) states the SIG "is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies." S.C. Code Ann. § 1-6-20(B).

Section 1-6-30 of the South Carolina Code (Supp. 2018) sets forth the powers of the SIG as follows:

The State Inspector General may:

- (1) initiate, supervise, and coordinate investigations authorized by this chapter;
- (2) recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state government;
- (3) receive complaints alleging a violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, or person who has a business relationship with an agency;
- (4) receive complaints from any individual, including those employed by any agency, alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency;
- (5) adopt rules and regulations for administering the Office of the State Inspector General;
- (6) offer every employee, state officer, special state appointee, and person who has a business relationship with an agency training in the Rules of Conduct pursuant to Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws;
- (7) provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency;
- (8) recommend legislation to the Governor and General Assembly to strengthen public integrity laws; and
- (9) annually submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives detailing the State Inspector General's activities.

As part of an investigation, section 1-6-50 of the South Carolina Code (Supp. 2018) specifically gives the SIG the ability to “(1) administer oaths; (2) examine witnesses under oath; (3) issue subpoenas and subpoenas duces tecum; and (4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained

by an agency.” You ask whether these powers explicitly given to the SIG are inherent in or may be delegated to SIG office staff.

The answer to your question is a matter of statutory interpretation. As our Supreme Court stated in Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000):

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute. Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.

(citations omitted) (internal quotations omitted).

A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. Moreover, it is well settled that statutes dealing with the same subject matter are in *pari materia* and must be construed together, if possible, to produce a single, harmonious result.

Fullbright v. Spinnaker Resorts, Inc., 420 S.C. 265, 272, 802 S.E.2d 794, 798 (2017), reh’g denied (Aug. 22, 2017) (citations omitted) (internal quotations omitted). “[A] statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect.” Senate by & through Leatherman v. McMaster, 425 S.C. 315, 322, 821 S.E.2d 908, 911 (2018) (citations omitted) (internal quotations omitted).

As stated in section 1-6-50(B), the SIG is charged with the responsibility of investigating and addressing allegations of wrongdoing by state agencies. The SIG alone cannot perform the duties assigned to him or her under section 1-6-20(B). By Section 1-6-20(A), the Legislature appears to contemplate this dilemma and alleviate it by allowing the SIG to hire staff to carry out the duties of the SIG. However, without the powers afforded to the SIG, his or her staff cannot carry out the duties of the SIG. Accordingly, reading section 1-6-50(A) in concert with section 1-6-20 and with what we believe to be the intent of the Legislature, we are of the opinion that the Legislature intended for the SIG staff to have the same authority as the SIG under section 1-6-50(A) in regard to the ability to administer oaths and examine witnesses and records.

In 1985, this Office issued an opinion addressing the ability of the Board of Corrections to contract with a private entity to manage a State correctional facility. Op. S.C. Att’y Gen., 1985 WL 166051 (S.C.A.G. Aug. 8, 1985). Among other issues, we discussed the Board’s ability to delegate its statutory authority to manage a county facility to a private entity. We noted,

[i]t is well recognized that there must exist statutory authority for an administrative officer or agency to subdelegate any portion of the authority which has been delegated to him by statute. However, if it is reasonable to imply the authority to subdelegate, such an implication may legally be made.

Id. In this instance, section 1-6-50 clearly gives the SIG the authority to administer oaths, examine witnesses, and examine records and other documentation during an investigation. Although, section 1-6-50 does not specify this authority extends to the SIG staff, we believe section 1-6-20(A) implies such authority.

You ask whether this authority is inherent in the SIG staff or whether this authority is delegated to the SIG staff by the SIG. Based on our interpretation above, we believe the Legislature provided SIG staff with authority to perform powers given to the SIG as necessary to carry out the duties of the SIG. However, we also note the SIG staff are employed by the SIG. The SIG has authority to oversee and regulate how these powers are exercised in furtherance of the purposes and authority of the SIG.

#### Conclusion

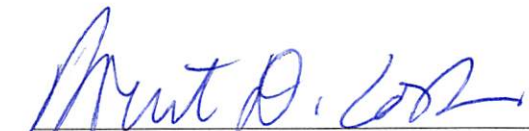
Giving the provisions contained in sections 1-6-10 et seq. of the South Carolina Code a reasonable and fair interpretation in light of the Legislature's intent, we are of the opinion the Legislature intended for staff of the SIG to have the ability to exercise the powers given to the SIG in section 1-6-50(A) so long as they are necessary to carry out the duties of the SIG.

Sincerely,



Cydney Milling  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General