

1976 WL 30870 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 24, 1976

*1 Mr. Harold E. Trask, Jr.
Office of the Governor
P. O. Box 11450
Columbia, South Carolina 29211

Dear Mr. Trask:

You have requested an opinion from this Office as to which public agency is authorized to conduct an audit of the county alcohol and drug abuse commissions. In my opinion, the South Carolina Commission on Alcohol and Drug Abuse [Commission] is the appropriate agency to conduct such an audit.

The organic legislation which created the alcohol and drug abuse program at the county level [§§ 4-29.21 *et seq.*, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.)] requires the county governing body to:

(b) [p]rovide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for such funds, including authorization to the appropriate State agencies for periodic audit and examination of all fiscal records related to expenditure of these funds as may be necessary. § 4-29.26, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). [Emphasis added.]

Although the language of this provision is somewhat ambiguous insofar as it provides that the county governing body is to authorize 'the appropriate State agencies' to audit and examine records relating to the expenditure of the alcohol and drug abuse program funds, the Commission would seem, at least to me, to be the appropriate State agency to insure that those funds are being dispensed properly inasmuch as the Commission, acting pursuant to Section 4-29.22(b) of the Code, must initially approve the county program before it can be implemented. See also, §§ 32-1510.21 and 32-1510.23 of the Code (Cum. Supp.).

In my opinion, the county itself is not empowered to conduct such an audit; indeed, Section 4-29.26 provides that appropriate State agencies are to conduct the audit. Moreover, Section 14-3712 of the Code (Cum. Supp.) most probably does not provide the authority for the county to conduct such an audit inasmuch as the alcohol and drug abuse program funds are not county funds but, instead, are State funds collected by the South Carolina Tax Commission and allocated to the county pursuant to Section 4-29.24 for the sole purpose of funding the county's alcohol and drug abuse program. If the funds are not totally expended for such purpose within two years of receipt, the surplus reverts to the general fund of the State pursuant to Section 4-29.24. Such restrictions imposed on the use of these funds [see also, § 4-29.25] prevent them from being 'county funds' within the meaning of Section 14-3712.

Finally, the State Auditor's office is most probable not an appropriate State agency to conduct the audit as the State Auditor is to audit State offices and officers pursuant to Section 1-882 of the Code and, of course, county alcohol and drug abuse commissions are not State offices.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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