

1976 WL 30903 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 16, 1976

*1 Mr. F. Earl Ellis
Deputy Director
State Development Board
Post Office Box 927
Columbia, SC 29202

Dear Mr. Ellis:

Your letter of December 3, 1976, has been referred by the Attorney General to me for answer. Your question concerns the Development Board's establishment of a policy to comply with the intent of the Parks, Recreation and Tourism proviso which requires that in-state agencies be awarded advertising contracts unless none appears qualified. Your specific question is

In meeting the intent of the law, should the South Carolina State Development Board consider out-of-state presentations at the same time it considers in-state presentations, or did your opinion regarding PRT suggest that the qualifications of in-state agencies have to be determined before out-of-state agencies are interviewed or considered?

The earlier opinion, issued by this Office to PRT, concluded

[I]f there is a South Carolina agency, which the Commission determines to be both 'competitive' and 'qualified,' then the Commission must award the 'advertising and promotion' contract to that State advertising agency. However, after studying the recommendations and findings of the two panels, if the Commission makes a find [sic] that neither of the two South Carolina advertising agencies is [sic] both 'competitive' and 'qualified' for the particular contract to be awarded, the Commission may legally award the contract to an out of state advertising agency on a competitive bid basis.

In order to meet the intent of the law, the Development Board should first determine whether or not there are any in-state agencies which are qualified to do the desired advertising before the Board interviews or considers out-of-state agencies. If this Office may be of further assistance, please do not hesitate to contact us.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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