

1976 S.C. Op. Atty. Gen. 422 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4550, 1976 WL 23166

Office of the Attorney General

State of South Carolina

Opinion No. 4550

December 22, 1976

\*1 The Citadel may not award a contract for the renovation of Barracks Numbers Three (3) and Four (4) without going through competitive bids therefor.

To: Mr. John McPherson  
State Engineer

QUESTION INVOLVED:

Can the Citadel award a contract for the renovation of Barracks Numbers Three (3) and Four (4) to the contractor who is currently renovating Barracks Number Two (2) without following the competitive bid process outlined in Section 1-466, CODE OF LAWS OF SOUTH CAROLINA, 1962?

AUTHORITIES INVOLVED:

Section 1-466, CODE OF LAWS OF SOUTH CAROLINA, 1962.

DISCUSSION:

The Citadel is currently having Barracks Number Two renovated at the cost of six hundred sixty-four thousand nine hundred and seventy dollars (\$664,970.00). There are 268 rooms being renovated at an average cost of two thousand four hundred eighty one dollars and twenty-three cents plus (\$2,481.23+) per room. The contractor involved in this construction has agreed that he will renovate Barracks Numbers Three (3) and Four (4) for The Citadel at an average cost of two thousand one hundred twenty-two dollars and sixty-four cents (\$2,122.64) plus per room or nine hundred thousand dollars (\$900,000.00) for 424 rooms if he is given a contract for construction. This would be a savings of some three hundred fifty-eight dollars and fifty-nine cents (\$358.59) per room over the existing contract and in all probability, is a lower price than The Citadel could expect to get if it advertises for bids. Furthermore, if the same contractor is retained on the job, the architectural and engineering firm retained to do the renovation, has agreed to reduce its fee by 1.6%, which would represent a savings of some fourteen thousand four hundred dollars (\$14,400.00). The question is whether or not The Citadel can enter into such a contract without going through competitive bid procedures outlined in Section 1-466 of the Code.

Section 1-466 of the Code provides, in pertinent part:

No public building or addition thereto, constructed from State funds, costing more than ten thousand dollars shall be constructed in the State unless competitive bids for the contract therefore shall have been advertised in a newspaper of general circulation in the State, at least three times over a period of thirty days. . . .

The Attorney General's Office has consistently opined that renovation of a public building is included within this provision. The contract between the contractor and The Citadel for renovation of Barracks Number Two (2) does not contain an option to renew the contract. Consequently, there are no legal grounds upon which The Citadel can avoid

complying with 1-466, even though they could possibly save money by negotiating with the contractor who already has his forces mobilized and is familiar with the problems that will be encountered in the renovation of Barracks Numbers Three (3) and Four (4).

\*2 M. Elizabeth Crum  
Assistant Attorney General

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