

1976 S.C. Op. Atty. Gen. 407 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4540, 1976 WL 23157

Office of the Attorney General

State of South Carolina

Opinion No. 4540

December 8, 1976

*1 Funds remitted to a local school district pursuant to Section 21–285, Code of Laws of South Carolina, 1962, as amended, from the State public school building fund to construct an administration building must be expended in accordance with Section 21–290, Code of Laws of South Carolina, 1962, as amended, which requires a public contract after public advertisement for the construction in question.

TO: Deputy Superintendent
Division of Finance and Operations
South Carolina State Department of Education

QUESTION PRESENTED:

You have asked whether a local school district must publicly advertise for bids for the construction of a school district administration building to be constructed with state funds, even though said building would be estimated to cost less than Thirty Thousand (\$30,000.00) Dollars if constructed by local school personnel and students.

DISCUSSION OF ISSUE:

School District Number 4 in Florence County proposes to construct an administration building with money from the State public school building fund using District 4 personnel and students in 'T I classes' to perform the actual construction. The district superintendent stated in a letter to you that the manner of construction just described would allow the proposed administration building to be constructed at a total cost of less than Thirty Thousand (\$30,000.00) Dollars. On the other hand, if the building were constructed under public contract after public advertisement for bids, the total cost would exceed Thirty Thousand (\$30,000.00) Dollars.

Section 1–466, Code of Laws of South Carolina, 1962, as amended, provides generally that public advertisement for bids is required if state funds are to be used in a construction project costing in excess of Thirty Thousand (\$30,000.00) Dollars. Whether the construction project in question must be performed under contract pursuant to Section 1–466, presents an interesting question; however, the question as posed in your letter need not be addressed, because other more specific statutes exist directing the expenditure of funds in question here.

Sections 21–271–21–290, Code of Laws of South Carolina, 1962, as amended, expressly provide the manner in which funds from the State public school building fund may be expended. These Code sections set out in detail procedures binding the State Department of Education, county boards of education, and local school districts in obtaining and expending State public school building funds. Section 21–290, states as follows:

Any construction to be financed from funds received from the State public school building fund, pursuant to the approval of the Board, shall be on public contract, such contract to be let by the trustees of the school district, and the awarding of the necessary contracts shall be in the sole province of the school district concerned. Contracts shall be let on public advertisement thereof, and on such conditions and within such limitations as the Commission may approve.

*2 It appears beyond question that the Legislature intended that any building financed from funds of the State public school building fund may be constructed only after public advertisement for bids and the awarding of a public contract by the local school district trustees.

As previously noted, while Section 1-466 may be applicable to this situation, it is not dispositive of the precise question presented. Section 21-290, takes precedence over Section 1-466, because a more specific statute will prevail over a general statute when both cover the same general topic. This is a well recognized principle of statutory construction, and one expressly recognized in South Carolina. See [South Carolina Electric and Gas Co., et al. v. South Carolina Public Service Authority](#), 215 S.C. 193, 54 S.E.2d 777 (1949); [Criterion Insurance Company v. Hoffman](#), 258 S.C. 282, 188 S.E.2d 459 (1972); and [Culbreth v. Prudence Life Insurance Company](#), 241 S.C. 46, 127 S.E.2d 132 (1962). Here Section 1-466 deals with expenditures of state funds generally while Section 21-290 covers specifically funds from the State public school building fund.

CONCLUSION:

School District Number 4 of Florence County may not expend funds of the State public school building fund for construction of an administration building without first publicly advertising for bids and awarding a public contract, pursuant to Section 21-290, Code of Laws of South Carolina, 1962, as amended.

Paul S. League
Assistant Attorney General

1976 S.C. Op. Atty. Gen. 407 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4540, 1976 WL 23157