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Computer Services: Charges

5 M.R.S.A. § 1852-8

August 12, 1976

Stephen W. Locke, Sr., Director

Central Computer Services

S. Kirk Studstrup, Assistant

Attorney General

Schedule of Charges for Computer Services

Your memorandum of July 23, 1976, requested our advice concerning those expenses of the Bureau which may be included in the calculation of charges for computer services to other state agencies. Among the powers and duties of the Department of Finance and Administration, operating through the Bureau of Central Computer Services, is the authority "to levy appropriate charges against all state agencies utilizing services provided by the bureau, such charges to be those fixed in a schedule or schedules prepared and revised as necessary by the director and approved by the commissioner." 5 M.R.S.A. § 1852,8, as enacted by P.L. 1975 Chapter 322. Also included among the powers and duties are activities such as approving all data processing services and systems, reviewing positions for data processing personnel, formulating a state master plan, and developing standards and rules and regulations. 5 M.R.S.A. § 1852. These activities would be performed independent of any services performed for other agencies and would usually not be considered to be "services" for these agencies.

It is my understanding that the Legislature has not, at the present time, provided funding by way of appropriations for the Bureau to conduct these other activities. Therefore, your question is essentially whether the funds necessary to provide manpower and facilities to conduct these activities may be included in the calculations used to arrive at the schedule of "appropriate charges" for all state agencies who use the Bureau's services. If they were included, the effect would be that all user agencies would subsidize the performance of these general activities on a pro rata basis. We do not believe the expense for these activities should be used to compute the service charges, for the reasons stated below.

The organic statute for the Bureau envisions several sources of funding. There is authorization "To submit a budget of estimated revenues to and costs to be incurred by the bureau." 5 M.R.S.A. § 1851,9. There is also authorization ". . . to accept funds from the Federal Government, municipal and county agencies, or from any individual or corporation to be expended for purposes consistent with this chapter. 5 M.R.S.A. § 1853. Even more important is the establishment of a "intra-governmental service fund account" by 5 M.R.S.A. § 1854, which reads:

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"There is established an intra-governmental service fund account for the Bureau of Central Computer Services. This fund shall include but not be limited to appropriations made to the bureau, funds transferred to the bureau from within the Department of Finance and Administration, and funds received for data processing services rendered to state agencies."

There is no legislative history to indicate any legislative intent concerning financing of the Bureau's activities and services, other than the wording of the enactment itself. However, the statutory provisions set forth in the preceding paragraph clearly indicate that the Legislature intended the Bureau to have funding from sources other than and in addition to the "appropriate charges" for services to state agencies. We believe that those activities of the Bureau which do not have at least an indirect relationship to services performed for agencies should not be funded by charges for those services. Stated differently, the term "appropriate charges" does not include expenses of the Bureau not related to the services being performed for the user agency. The other activities of the Bureau which are of importance to the State as a whole should be financed by other funding sources. In the absence of an appropriation for this purpose, the funds would have to come from within the Department of Finance and Administration or from the Federal Government or from any of the other sources mentioned in §§ 1853 and 1854.

S. KIRK STUDSTRUP
Assistant Attorney General

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