

MAINE STATE LEGISLATURE

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To Gary King, Field Examiner III

Dept. Maine State Retirement System

From Paul F. Macri, Assistant

Dept. Attorney General

Subject Project Lodestone, Inc.

You have requested that we review the organization called Project Lodestone, Inc. for purposes of determining whether it is a separate "political subdivision" for the purposes of extending Social Security benefits to the employees of such unit by direct agreement with the Maine State Retirement System, as provided under the provisions of 5 M.R.S.A. c. 103.

5 M.R.S.A. § 1222(6) defines "political subdivision" as follows:

"The term 'political subdivision' includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine, academies, water, sewer and school districts, associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State of subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision."

5 M.R.S.A. § 1222(6)

In order to qualify for Social Security coverage, therefore, a "political subdivision" must meet the following four tests:

1. It must be an instrumentality of the State of Maine or of one or more of its political subdivisions;
2. It must be a juristic entity;
3. It must be an entity legally separate and distinct from the State or subdivision;
4. Its employees may not, by virtue of their relationship to the entity, be employees of the State or subdivision.

It is our opinion that Project Lodestone, Inc. meets these four tests and is, therefore, a "political subdivision," for the purposes of Social Security benefits.

We find Project Lodestone to be an instrumentality of political subdivisions of the State, in that it appears to have been organized by the various school systems of Washington County in order to carry out specified educational functions, more specifically, to provide multi-media services to the member schools. The members of the board of directors of Project Lodestone are the superintendents of the various schools involved. The functions of the Project appear to be governmental, in the sense that they administer to educational needs in the area and are functions which the schools themselves would ordinarily perform. We, therefore, conclude that Project Lodestone is an instrumentality of one or more of the political subdivisions of the State of Maine.

We also conclude that Project Lodestone is a legal entity. This conclusion arises from its incorporation under Title 13 M.R.S.A. c. 81. Also by virtue of its incorporation, the Project is an entity which is legally separate and distinct from the political subdivisions for which it functions.

Finally, because we view the Project as a separate and distinct legal entity, we conclude that its employees are not employees of the State and that it therefore fulfills the fourth test for being a political subdivision under § 1222(6). You should note, however, that members of the boards of directors who are employed by the authorizing school districts should not be viewed as employees of Project Lodestone and therefore eligible for Social Security coverage. Employees of Project Lodestone would be those persons hired by the board of directors to carry out its purposes.

We hope this opinion addresses the questions which you raised in your memorandum. If you have any further questions, please feel free to contact this office.



PAUL F. MACRI
Assistant Attorney General

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