

1984 WL 249873 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 30, 1984

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Attorneys at Law
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Dear Mr. Smith:

You have requested the opinion of this Office as to whether the Charleston County Department of Social Services, in seeking Federal matching grants through the State Department of Social Services, to funds appropriated by the Charleston County Council for data processing costs, accountant fees and legal fees, needs written approval prior to expenditures in these areas.

The State Department of Social Services' authority to seek Federal financial participation through matching grants is found under State law in Section 43-1-120 which provides:

The State Department may take such action as it may deem necessary, from time to time, to enable the Department to secure for the State and its residents the full benefits available under the Social Security Act of Congress and any amendments thereof and under any other Federal legislation having for its purpose the improvement or extension of social and welfare assistance or services to the people of the United States. But nothing contained in this section shall be construed to authorize any action by the Department in violation of the law of this State.

The Federal Government authorizes the South Carolina Department of Social Services, as the single State agency, to claim allowable Federal grants on behalf of county government and sets guidelines for the application for and administration of these grants.

45 C.F.R. 74(A) establishes uniform requirements for the administration of Health and Human Services Grants and principles for determining costs applicable to activities assisted by Health and Human Services Grants. The procedures established for determining the reasonableness, allowability, and allocability of costs should be in accordance with the cost principles set out in Federal Management Circular, OMB Circular No. A-87, Cost Principles for State and Local Government. Attachment B of that Circular lists standards for selected items of cost and allowable costs and provides with regard to accounting costs: 'the cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes costs incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State purposes, such as appropriation and fund accounts . . . is considered to be a general expense of government and is not allowable.'

Item No. 16 relates to legal expenses and provides that the cost of legal expenses required in the administration of the grant program is allowable. Like accounting fees, legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. In addition, legal expenses for the prosecution of claims against the Federal Government are also unallowable. Therefore, requirements by the State to ascertain whether legal and accounting fees fall within the Federal guidelines seem to be proper.

*2 OMB Circular A-87 provides that data processing costs are allowable to grant programs with the prior approval of the grant by the Federal agency. The State, in its Finance Manual, Volume 10, Chapter 1200, places no higher duty on the county

government than is required by the Federal Government with regard to data processing costs. Therefore, it would seem that data processing costs must be submitted for prior approval.

The Attorney General's Office has issued its Opinion No. 77-219 dated July 12, 1977, that the State Department of Social Services is the supervisory agency of the County Department of Social Services and all rules, policies and regulations adopted by the State Department are binding on the County Departments based upon [Section 43-1-90, Code of Laws of South Carolina \(1976\)](#). While Act No. 151, Part 1, Section 42, 1983, provides that the administrative organization and operation of the State Office of the Department of Social Services shall not interfere with nor encroach upon the statutory authority of County Social Services Boards, the present requirements of the State Department of Social Services do not conflict with or encroach upon the statutory authority of the County Social Services Boards found in Section 43-3-60. See also Section 43-3-70, et seq., (relationship of County and State Departments pertaining to fiscal matters).

[Section 43-3-110, South Carolina Code](#) of Laws (1976), provides:

Each county board shall furnish such reports and data as may be required by the State Department or the Federal Government, through its appropriate agency or instrumentality, concerning conditions within its county, its activities and functions and the administration of funds received by it.

The State agency, in view of the Federal guidelines for allowable costs, can properly require that accountant fees and legal fees be properly designated to see whether they fall within applicable Federal standards. There does not seem to be a requirement for prior approval on these fees where State appropriated funds are not involved. Where State appropriated funds are involved, prior approval by the Attorney General for expenditures on legal fees is required pursuant to Act No. 151, Part 1, Section 10, 1983. With regard to data processing costs, because of the Federal standards for prior approval, the State requirement of prior approval would be appropriate.

Very truly yours,

Ruby E. Brice
Assistant Attorney General

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