SEN. ROGER J. KATZ, SENATE CHAIR
REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

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SEN. BILL DIAMOND
SEN. STAN GERZOFSKY
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REP. RICHARD H. CAMPBELL
REP. ROBERT S. DUCHESNE
REP. ANNE-MARIE MASTRACCIO
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
February 12, 2016

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:02 a.m. in the Cross Office Building.

ATTENDANCE

Senators:	Sen. Katz, Sen. Johnson, Sen. Burns, Sen. Gerzofsky Joining the meeting in progress: Sen. Davis and Sen. Diamond
Representatives:	Rep. Kruger, Rep. McClellan, Rep. Campbell, Rep. Duchesne, Rep. Mastraccio and Rep. Sanderson
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE JANUARY 8, 2016 GOC MEETING

The Government Oversight Committee accepted the Meeting Summary of January 8, 2016 as written.

NEW BUSINESS

• Communication From Health and Human Services Committee on DHHS Auditing Review

Director Ashcroft said over the Interim the Health and Human Services (HHS) Committee undertook a project to review the allocations of the Fund for Healthy Maine with the goal of making sure that those allocations were staying aligned with the State's health priorities and needs. She said the Committee issued a Study Report that included several recommendations. One of those recommendations was to convey to the GOC their interest and support for the DHHS Auditing review that is already on OPEGA's Work Plan.

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Director Ashcroft said the HHS Committee notes particularly that during their study there was a lot of discussion about whether contracts being funded from the Fund for Healthy Maine were being audited by DHHS. Even though the recipients of those funds are required to file financial reports with the Department, it was unclear to the HHS Committee whether there was actually any auditing going on as part of the regular contract administration and monitoring process. The HHS Committee was conveying to the GOC that when OPEGA gets to the DHHS Auditing review, they were supportive of the review, and would appreciate knowing what is getting done, in particular, in regard to the auditing of those types of contracts.

Rep. Sanderson, a member of the HHS Committee, said it is always very unclear exactly how some of the money is being spent and if it is spent with a level of appropriateness to ensure that the State is getting the best bang for its buck in the programs. The HHS Committee wanted to make sure there is not a mechanism for DHHS to review the contracts and actually dig into all their contracts as a whole, including the Fund for a Healthy Maine. She said the HHS Committee can get the reports from the groups who receive the funds, but how much goes into auditing the data that the Committee receives in the reports is a gray area. HHS Committee does not know how in depth DHHS is allowed to go in their auditing and that is the area the Committee would appreciate OPEGA reviewing.

No GOC action was necessary.

- **Follow-up on Action Items From Past Reviews**

  - **Division of Purchasing Rule and Policy Changes**

    Director Ashcroft referred to the letter the GOC sent to Commissioner Rosen dated March 13, 2015 asking the Division of Purchases to take certain steps to address some issues that had come out of work done by the GOC and OPEGA on the review of the Healthy Maine Partnerships' contract funding for FY13.

    Director Ashcroft noted that in the letter the GOC recommended specifically to the DAFS' Division of Purchases the following:

    A. Revise Chapter 110 Rules (rules that governor purchases of services and awards) to include the term "grant" wherever the term "contract" appears to make sure that it was clear that those rules applied to grant awards as well as to contracts.

    B. That Purchases review its Policy on Contract Renewals and Amendments to clarify that the policy also applied to grants and to provide additional guidance on situations where either through renewal, or amendment, there was going to be decreases, or shifts, in funding among multiple original awardees.

    Director Ashcroft also noted for those who were not on the GOC at the time, that was the situation with the Healthy Maine Partnership contracts for FY 13 and one of the issues was that there was no State or Department level guidance on how to proceed in that kind of a situation. That was one of the reasons given by the Department to OPEGA for implementing the process they used. That process was flawed.

    The GOC specifically recommended that the additional guidance should require that any decreases, or shifts in funding, accomplished via a renewal or amendment to an existing contract be: (a) directly related to the elimination of, or decrease in, goods and services provided to awardees; (b) directly related to unacceptable performance of one or more awardees; or (c) distributed among awardees equally or on the same basis as the original distribution of funding. Decreases or shifts in funding among multiple awardees on any other basis would require a new Request for Proposal as opposed to some other process. The guidance should also address the maintenance of documentation to support decisions that were made about how those contracts were adjusted.

Director Ashcroft said that Commissioner Rosen's responses states that DAFS' Rule Changes are still planned, but have not been completed yet because there are other changes to Rule 110 they would like to make and they would like to make them all at the same time.

Commissioner Rosen also said in his letter that the changes of the policy on contract renewals and amendments were made last year, but that Purchases is currently reviewing all of the policy guidance so the policy has been taken off their website while they are making their changes. They expect to return the information to the website later in 2016. Director Ashcroft said she has not yet had an opportunity to follow-up with Commissioner Rosen to get a copy of what their current version is because she could not get the information off the website. She will do that.

Commissioner Rosen also wanted to make the GOC aware that the electronic procurement system that the Division of Purchases had requested in the budget is moving forward swiftly. The creation of a web-based application so State agencies will be able to submit all of their procurement documents electronically for review is in the design stage and that will create a more efficient process than the paper one that currently exists.

Sen. Johnson said he was troubled by the Division of Purchases taking the current policy off the website because people are guided by what the current policy is and if they hide what that is then they are promulgating the same problem that the GOC suggested needed to be addressed. Director Ashcroft thinks Commissioner Rosen was letting her know that it was not on the web because she had said OPEGA had tried to find the new policy on the web, but she said that does not mean it is not available on an intranet type site to the State Agencies. Sen. Johnson asked if Director Ashcroft could follow-up to find out how available the policy is and how one would know where to find the information if they are working in State government. Director Ashcroft said she would.

- **DHHS RFP for HMP's and Records Management Efforts**

Director Ashcroft noted that there were a couple other issues stemming from OPEGA's Healthy Maine Partnerships Report. She said DHHS had indicated that they were going to take a number of actions in regard to the recommendations OPEGA had in the Report. She summarized DHHS's April 23, 2015 and February 5, 2016 letters updating their progress. (Copies of those letters are attached to the Meeting Summary.)

Comments and questions from GOC members included:

Rep. Mastraccio asked if Director Ashcroft had seen any information regarding the Request for Information DHHS need put out in advance of issuing an RFP. She said the information she has received from people in Southern Maine who work with the HMP program is that they really do not have any information yet, but that they expect something to be very different than what they had before and that is what concern's her. In DHHS's letter they said by the end of 2015 they were going to have that information out there because, to be fair, were looking at a five year contract with a lot of money involved. Rep. Mastraccio was concerned about what it was going to look like and would they have enough time before the end of the year.

Director Ashcroft said OPEGA has not seen any information regarding the RFI, but they could request it. She said her understanding of the RFI is that it was seeking information so she was not surprised that it did not disseminate information, but she does believe a lot of thought has been given as to how best to proceed going forward. DHHS has said it was releasing the RFP by the end of February 2016, but Director Ashcroft does not know whether they expect to be on the same time line for starting the new contracts.

Sen. Johnson asked what the expected time line was for the RFP process because if there are significant changes he would expect the committee of oversight would appropriately want to have a discussion with the Department. He wondered if time frame for the RFP process will provide for that Committee involvement. Director Ashcroft did not know and said it would be up to the Department to figure out how it wants to run its

RFP process. She did not think there was any requirement that the Legislature be involved in discussing what goes into the RFP. She would expect that they have built time in for legislative discussion about the RFP.

Sen. Katz noted that the GOC did not ask to keep any role in the RFP process.

Rep. Sanderson did not think the GOC needed a role because it would fall under the purview of the HHS Committee. It was her understanding that the Department was on target to issue the RFPs by the end of February 2016 which gives them plenty of time to have their contracts in place by July 1st.

Sen. Johnson noted that in question 1 it was asked if DHHS had a draft of the RFP that they could share confidentially with OPEGA. He said he did not see a response to that question and asked if Director Ashcroft had received a draft, or an answer, regarding that. Director Ashcroft said she has not, but has not followed-up on it.

Rep. Campbell asked the difference between the RFI and RFP. Director Ashcroft said the RFI was designed to give Maine CDC broad community input into the programming structure and funding distribution for the HMP initiative. The RFI process had been completed as of April, 2015 and they had a contractor that was helping them analyzing the data. She said DHHS was not explicit as to whether the broad community input included folks that currently had the contracts and that is a follow-up question she could ask if the GOC was interested in who the RFI was distributed to. Rep. Campbell said he would be interested in receiving that information.

- **Possible GOC Communication to Joint Standing Committees' on Quasi-Independent Entity Reports**

Director Ashcroft reminded the GOC that early last year the Committee introduced legislation to add some requirements for the joint standing committees of jurisdiction regarding the statutorily required reports from quasi-independent state agencies. That requirement had been established through previous Legislation the GOC had introduced. She said the governing boards of the quasi-independent state agencies were required to adopt written policies governing certain financial and operational practices, including procurement, meal/travel type expenses, and the degree to which the organization could make contributions, donations or sponsorships,

Director Ashcroft said the first round of the previous legislation was to have all of the entities identified in the statute adopt policies for their organization that were consistent with things that are laid out in that statute. She said, for example, they were required to establish a procurement policy that made competitive procurement the standard policy with exceptions carved out as were appropriate for their organization. They were required to adopt a policy on contributions and donations that limited such things to efforts that were clearly tied to their missions and purposes, etc. It also made the organizations' oversight boards accountable for ensuring that the organization was staying in compliance with its own policies. Director Ashcroft said the last piece of the legislation was a reporting to the Legislature every year on procurements exceeding $10,000 that were not competitively bid, and contributions and donations made that exceeded $1,000 to any individual or organization. She said the new requirement in the legislation the GOC most recently introduced came from their discussion that the reports were getting submitted but nobody was doing anything with them. That is why the GOC crafted the additional piece requiring the joint standing committees to review them.

Director Ashcroft was not sure the joint standing committees were focused on the fact that they have this task so she wanted to know if - (a) the GOC wanted to send a letter to the joint standing committees or, alternatively, she can send communication to the analysts for those committees reminding them of this requirement and what the purpose of it really is. She used the NNEPRA review as an example and said the intent was that joint standing committees would review these reports, and at a minimum, see if there are any transactions that show up on them that were of concern. Ideally, the joint standing committees would also at the same time, review with the quasi what its policies are that are required under this statute and see if there were concerns about the way their policy was laid out. Also, does it look like they had complied with their own policy in the way they were operating? Director Ashcroft said that was the ideal situation, but she does

not think it has been getting done. It offers an opportunity, and now a requirement, for example to the Transportation Committee, to ask those kinds of questions even before OPEGA gets to doing the full NNEPRA review.

Director Ashcroft noted that the quasi-independent reports were due February 1st so they have all been received and the joint standing committees currently have access to them and have been asked to review this year and the year prior.

Director Ashcroft believes it is going to be an effort to raise awareness that this requirement even exists.

Following Committee discussion, Chair Katz said they could asked Director Ashcroft to write a letter to the joint standing committees' analyst and that would get the GOC the quickest result.

Rep. Mastraccio knows that LCRED has received a couple of reports and thinks it is the context within which they had reviewed the report that is missing. They were just getting the report and it was said what the changes were that had been made and here is why we are reporting it to you. She thinks things just blend together. What is missing is when a report comes to the joint standing committee it ought to come with here is why you are looking at this report, because every two years you may have somebody new sitting on the committee.

Sen. Johnson noted that there are strict requirements on the Right To Know review and when the Judiciary Committee members receive the report they also receive a form with the questions that should be asked. He thought that would be helpful to other Committees in reviewing the reports they receive. If there was a sheet that analysts had before them that led them through that process, he thinks that would help move things along.

Chair Katz asked if it was the consensus of the GOC to ask Director Ashcroft to write a letter to the Analysts for each of the policy committees reminding them of this statute and their responsibilities. Director Ashcroft noted that she would focus on those policy committees that she knows are the ones of jurisdiction who are receiving reports. Members of the GOC agreed.

- **Possible GOC Action re: Policy Oversight Committee for OIT**

Director Ashcroft said OPEGA's report on IT in 2006 noted that there was no policy committee that was specifically tasked to oversee all of the complex information technology issues and following that the SLG Committee was assigned jurisdiction of information technology areas in State government. In OPEGA's OIT Follow-Up Review they had included a recommended legislative action for the Joint Standing Committee on State and Local Government (SLG) to monitor OIT's progress in implementing its action plan and to advise the GOC if there are any concerns with OIT's progress in that regard. OIT will soon be scheduled for follow-up and report back with an action plan to the GOC on the items in the report.

Director Ashcroft asked if the GOC wanted to send a communication to SLG Committee making them aware of OPEGA's recommendation in the Follow-up report overseeing OIT and what it is we are hoping they will do in that regard. She said in the past when OPEGA has asked policy committees to fill that kind of role, it has not been completely effective because they are only here part of the year. Nonetheless, they keep making an attempt to share some of the responsibility for making sure some of these things move along.

Though OPEGA did not include it in the recommendation, Director Ashcroft wanted to make the Committee aware of that in talking with OIT throughout the review it became obvious that it is very difficult to communicate IT issues within the Legislature. First because it touches every agency so it is with every committee. Second because a lot of the IT issues are complex and require some amount of technical awareness to be able to dig in and ask the right questions of OIT. She thinks that is part of the reason OPEGA's follow-up review ten years after they released the 2006 report had the same issues in it. There was a piece missing at the legislative level about asking the right questions on some of the issues.

Director Ashcroft said she was not sure that it is being recognized that IT is one of SLG's responsibility. Was there a GOC role in communicating to whomever an awareness of what SLG has for a challenge around IT issues and what that might mean for the makeup of that Committee, or if there was another route to take because of it being such a complex subject matter.

Rep. Mastraccio did not see that there was any committee of jurisdiction that could be guaranteed to have the expertise needed to look into OIT every two years. She asked what other States did, do they have something that exists as an overseer that OIT reports to. Director Ashcroft said she did not know what other States do, but that was a good question.

Director Ashcroft noted that she did not raise the issue for a solution today, but thought it might be worth mulling and see if there were other creative ideas about how to get efficient and effective legislative oversight of not only the critical IT areas, but also there has been a real struggle with understanding IT's finances and budget among all the committees this past year. This might be an opportunity to think about how they wanted to get a handle on that.

Rep. Campbell gave the example of DEP's budget being hit with unexpected increases by OIT and the Department could not do anything about it. He said for OIT to be in such control without anybody understanding why, is a problem and asked how OIT got assigned to SLG. Director Ashcroft thinks the issue OPEGA raised in their report was there was nobody assigned to look at OIT and thinks SLG seemed like the natural place because it encompasses all of State government.

Rep. Duchesne agreed with Rep. Campbell.

Rep. Sanderson said from her perspective on the HHS Committee it was a deficit not knowing how OIT services DHHS and what the job is that they actually do. She said it was no one's fault for not understanding, but said the increase in the Department's budget last year for IT, although they may have been justified, seemed to be a lot of money. She agreed that a committee needed to have oversight of OIT, but was not sure which is the right one or if an independent committee that has an expertise and knowledge in IT should be created.

Chair Katz suggested that the GOC might raise their concerns to the Presiding Officers. They appoint members to committees and could be alerted to the fact that it does not seem that any committee has the expertise on it to effectively deal with OIT issues. They might also suggest that the answer may be a separate select committee.

Sen. Johnson said he would support both of the Chair's suggestions. He referred to Recommendation 1 and thinks that deciding how to handle this on the Legislative side should factor in that they are also recommending establishment of an Executive-level enterprise-wide IT governance function and that should be part of what the Legislature was looking to interact with in the process.

Rep. Campbell said nobody has the time, or expertise, to deal with IT so thinks it would be good if the GOC could come up with some specific action to suggest to the Presiding Officers or to the Legislative Council.

Rep. Sanderson said she would support creating a separate committee solely overseeing and focused only on OIT with an understanding of their full function and what the costs are to do that function effectively.

Rep. Duchesne thinks there is a two part problem. First, no one has an understanding of IT and if the GOC just hands it to any joint standing committee it is going to take them quite a while to understand it. He said it may be that something has to be set up to get arms around it, produce a product of knowledge and then eventually that is handed off to a committee.

Sen. Johnson noted that IT is a fast moving area and how much it is driven by the business needs and figuring out the possibilities and capabilities of technology would advance that best. He said it is a highly strategic

area of State government that has huge implications on costs and efficiencies. He thinks it requires a different understanding and manner of looking at the function than other State departments in general because it is so critical, strategic and potentially costly. He said it has its fingers into the functioning of all of these departments, as DAFS does, but it is more complex. It is deserving of a separate discipline examining what is happening and interacting with the Executive Branch on making highly strategic and important IT decisions for State government.

Rep. Campbell said that the GOC should define the direction of oversite rather than leaving it to those that are so busy.

Sen. Burns said expertise sometimes helps on committees, but he did not think they should be looking to have only people to serve on a special committee that are involved in IT. Some other Committee members expressed their agreement.

Motion: That the Government Oversight Committee request that the Presiding Officers look into establishing a select committee that would be able to focus on the OIT issue. (Motion by Rep. Mastraccio, second by Rep. Campbell)

Discussion:

Rep. Sanderson said the GOC can recommend the joint select committee, but suggested the letter could also ask the President Officers to give their ideas on what other avenue of action could be taken if they do not think creating an oversight committee for IT was appropriate.

Rep. Mastraccio and Rep. Campbell agreed with Rep. Sanderson's amendment to their motion.

Vote: Motion passed unanimous vote 11-0.

Rep. Duchesne suggested that if this goes before the Legislative Council that some members of the GOC go to that meeting to speak on it.

Director Ashcroft said she will draft a letter and send it out to GOC members for their review and the Chairs will sign the letter when approved by all Committee members.

UNFINISHED BUSINESS

- **Review Status of Open Recommendations From OPEGA's 2006 Report on Economic Development Programs in Maine**

  - **Potential GOC Legislation re: DECD's Evaluation of Economic Development Programs**

Director Ashcroft referred members of the Committee to the Recommendations/Issues Identified for Potential GOC Action as of October 15, 2015 in their notebooks. She said it is a summary of what she had gleaned to be some of the primary issues that had surfaced in an ongoing review of open recommendations from OPEGA's 2006 Report and the GOC's discussion with DECD's Commissioner about the open items. The recommendations, or issues, focus around improving the efficiency and effectiveness of DECD's evaluation of economic development programs, including the research and development programs. She said the Committee was at the point of discussing each recommendation or issue and deciding whether they wanted to move forward and take action or not. (A copy of the Economic Development programs in Maine Recommendations/Issues Identified for Potential GOC Action as of October 15, 2015 is attached to the Meeting Summary.)

Director Ashcroft noted that she had talked with the Deputy Commissioner of DECD to share thoughts around this so believes she has an initial understanding of where the Department might be on some of the

suggestions. She said some recommendations/issues would require a statutory change so the GOC would be considering whether to introduce legislation to implement those changes.

During Director Ashcroft's summary of the Recommendations/Issues the questions and comments included:

A-1. Chair Katz said in the past he raised the idea that it would make sense for OPEGA to do the evaluations of research and development and economic development programs given that many of them are tax expenditures that OPEGA is already going to be reviewing. Director Ashcroft thinks the Commissioner of DECD said that might be a good idea down the road, but OPEGA is just getting started on what their evaluation process is going to look like and she agreed with that. She also said it would be a resource issue for OPEGA to take on those evaluations. OPEGA is going to try to coordinate the scope of the reviews being done and sharing information with DECD to make both efforts the most efficient possible. Director Ashcroft said they do recognize that OPEGA and DECD need to work out the coordination so the State is getting value from both without duplicating efforts.

Chair Katz said he was not raising the issue again for discussion at this time. He said it would clearly require additional resources for OPEGA to be able to do that. However, the State is spending hundreds of thousands of dollars for evaluation of the programs within DECD and, if they agree OPEGA should be doing it down the road, he would like to know how far down the road because he did not know if the State could afford to go many miles on this.

Rep. Mastraccio agreed with Chair Katz . She thought that with DECD evaluating and presenting reports on programs they were invested in there was potential for the Legislature to end up with differing results coming out of the GOC or OPEGA and then you get into a political thing. She said her point was that whatever they have should be data driven so that whoever is making decisions can make them in a way that is less political than they are now made. She said as a member of the LCRED Committee she trusts the data, as good or as bad as it will be, that comes from OPEGA because she knows it will be nonpartisan and nonpolitical with less influence from people's feelings about who is doing it. Director Ashcroft noted that is the kind of thing they will be discussing moving forward.

2. Director Ashcroft suggested moving the timeline for the evaluations to an odd numbered year so that it would be the first year of the session and give time over the legislative interim and into the next legislative session for the committee to be familiar with the report and review the recommendations. She also suggested lengthening the evaluation cycle which is currently every two years, as that seems too short a time frame to get any new recommendations implemented and to be able to see any results from them. Currently they are in a mode of every two years repeating the same recommendations, partly because nobody has done anything with them, but Director Ashcroft also thought it would be an implementation timeline problem. She wanted to suggest that the Committee think about making statutory changes to either require the evaluations every four years, or every six years, and noted the tax expenditure reviews will be on a six year cycle. She thinks four years would be a good time frame to allow action to be taken.

Rep. Campbell suggested three years.

Sen. Diamond had concerns about four years because the concerns the GOC has about the situation at DECD are not unique to this Administration and it seems like, for whatever reason, the concerns never get resolved. He said he would not object to four years as long as there were two year updates as to what is happening with the evaluation.

Rep. Duchesne said there were a lot of reports that just gather dust, but the ones that seem to get implemented are the ones that seem to have a champion, somebody who says I am going to

implement this report. He did not know how to institutionalize that kind of thing.

3. No comments or questions from GOC members.

4. Chair Katz asked why what was trying to be measured in these evaluations would not be exactly the same as the ones being used in the Tax Expenditure reviews. Director Ashcroft said they very well may be the same or similar. If the GOC were to task OPEGA with outlining a more defined scope for DECD's evaluations taking a look at what is required for the tax expenditure evaluations is where they would start.

5. Sen. Johnson recalled asking about the economic development strategy and being told there was not one. He had also expressed a great deal of concern about how to best get this done, avoid duplication and meet the expectations of DECD in its review as well as the GOC's oversight of what is cost effective for programs. He said that one falls solidly in the Department's area and they should be formulating a strategy at the macro level and looking at whether overall they are achieving those objectives through the tools and mechanisms of the individual programs or not. Sen. Johnson said that was a different question than asking if each program is achieving its specific objective and is cost effective in doing so. He thinks DECD should have a strategy and be able to measure how successful they are in achieving that strategy.

   Rep. Duchesne said the reason there is no strategy is because it changes every election. He said it is the elections that determine the strategies. He did not believe a coherent strategy could be developed unless it was done outside the function of politics.

   Rep. Mastraccio was curious of how many groups there were in the State working on that strategy that State government is not involved in.

6. Chair Kruger asked if there might be a model in the nonprofit world that the GOC could look at. He recalled that nonprofits are generally funded by grants and as he recalled, anything more than $5,000 was federally audited. He said in addition to an audit there was a strict reporting structure and set of guidelines as to what information they wanted back. He said there was a very strict protocol you had to go through in the reporting process and suggested there may be a model there that has not been looked at as far as what information the beneficiaries of economic development programs should be reporting.

   Chair Katz asked why there could not be something in statute which required, or at least allowed, DECD to establish what those benefitting from the program were required to provide for information.

   Rep. Sanderson thought that was already being done at this time without action on the GOC's part.

   Director Ashcroft said for some programs there is a reporting requirement that is tied to the approval of the application. She did not think that all of the programs have an application process where there is an opportunity to build that in and she did not know to what degree, even when it does exists, there is a specificity as to what exactly has to be reported.

   Rep. Mastraccio noted that the other issue is there is no penalty if you don't give the information either. They ask you for the information, but entities just do not respond. She said look at the Report and what the response rate is. There is no follow-up or penalty for not responding.

7. Rep. Sanderson commented that a more positive way to be talking about it would be as an incentive. For example, establishing a reporting requirement by date certain and, if that is not met, then going forward you no longer receive the funds. She said that gives the opportunity to not have to try and go after something that went out, but you just don't give it out.

Rep. Mastraccio reminded the Committee that one of the reasons tax expenditure review is with OPEGA is specifically because that was the only way they could say it would be confidential information because regardless of how you proceed, that is always going to be an issue. She said that is another reason to take it out of the purview of DECD.

Director Ashcroft said it is a stepped out process. First you identify what data is needed to tell them something. Then consider, how are you going to get the businesses to report that and is it something they are going to consider confidential. If so, is it confidential because we somehow made it confidential under statute and can we remove that piece of confidentiality, or can there be a work around it by setting up a self-reporting process that is not in the hands of an agency that needs to consider it confidential? She said the Commissioner had shared with the GOC some language that had previously been in statute that he thought gave DECD a little bit of authority around this. She will go back to look at that language and whether something like that makes sense to reintroduce if the GOC is interested in moving forward with that.

8. Director Ashcroft gave the example of the three reviews OPEGA is beginning on Tax Expenditures. One of the first steps lined out is to review the DECD evaluations that have been done for the last two years, see what they have to say about the programs OPEGA is evaluating this year and what was captured for data in the evaluation that OPEGA could use.

9. Director Ashcroft said there is a missing piece once the reports are out in terms of then specifying what is supposed to happen in regard to the recommendations. There needs to be a process the Legislature pursues or a process that would put the responsibility on DECD to drive with the Legislature.

Chair Katz referred to the discussion about information that might be required from businesses and how to get that information. He suggested that the GOC ask the LCRED Committee to join them and have a work session to hear the reactions from the public on these ideas the GOC was considering. He thought that may help the Committee better inform exactly what product they want to pass out of the GOC. Other members of the Committee agreed.

Following Committee discussion, it was decided that the GOC would hold a work session on Economic Development Programs and would invite members of the LCRED Committee and stakeholders to give them an opportunity to make comments.

B-1. Director Ashcroft said this suggestion regarded whether the GOC wanted to take any action to make sure that the recommendations in the reports that have already been released are considered by someone. She said some of the bigger overriding recommendations they are addressing with what has just been discussed by the Committee, but there are other recommendations in the reports that are specific to some of the programs and possible changes to those programs. Director Ashcroft did not think that those were currently on anybody's radar screen. She said somebody could ask DECD to go through the recommendations and give their input on what it would take to implement them and report back to the Legislature on whether they are worth implementing. She said the evaluator could also come before the GOC, or another committee, to discuss the recommendations.

Chair Katz asked if Rep. Mastraccio could profile this issue on the LCRED Committee. Rep. Mastraccio said she would do that.

(Following the GOC meeting it was decided that members of the Taxation Committee would also be invited to the February 26, 2016 meeting to discuss economic development programs.)

NEXT GOC MEETING DATE

Following Committee discussion the next meeting was scheduled for February 26, 2016 at 9:00 a.m. for the purpose of having a work session on DECD's Evaluation of Economic Development Programs.

REPORT FROM DIRECTOR

- **Status of Current Projects in Progress**

  Director Ashcroft said OPEGA was in the reporting phase for the **Riverview Psychiatric Center** review and expects to issue the Report to the GOC at the March 25, 2016 meeting.

  OPEGA has begun preliminary planning on **NNEPRA** and the **Division of Licensing and Regulation of Child Care Services**.

  On the **State Lottery** review, OPEGA is doing planning work to figure out how to modify the previous work plan to bring in the modified Scope as approved by the GOC.

  Director Ashcroft said OPEGA was well underway with the **Tax Expenditure Reviews** and are also gathering information for the expedited reviews that the Taxation Committee is supposed to receive by July 1st.

  Sen Gerzofsky asked if Director Ashcroft could give a timeframe of when OPEGA could get started on the NNEPRA review. Director Ashcroft said OPEGA will issue a report to the GOC on Riverview on March 25, 2016. She said as that winds down she expects that planning on the other projects will pick up in March and will be able to begin work as soon as possible after that on NNEPRA .

- **Staffing**

  Director Ashcroft reported that she is in the process of hiring for the last vacant position that OPEGA has. Interviewees will be selected shortly with the goal of having someone in the position by the end of March or first of April.

ADJOURN

The Government Oversight Committee was adjourned at 11:22 a.m. on the motion by Rep. Sanderson, seconded by Rep. Duchesne. Motion passed by unanimous vote.

Department of Health and Human Services
Maine People Living
Safe, Healthy and Productive Lives
Paul R. LePage, Governor
Mary C. Mayhew, Commissioner

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April 23, 2015

Beth Ashcroft
Director
Office of Program Evaluation and Government Accountability

Director Ashcroft,

In OPEGA's 2013 report on Healthy Maine Partnerships' FY13 Contracts and Funding, the Department's formal response included several actions that DHHS was taking relevant to OPEGA's recommendations. Please find below updates on those particular items.

This work is ongoing and the Department continues to strive for continuous quality improvement in this area, as well as other areas of the Department.

1. Conduct a new Request for Proposal process for the HMP initiative grants to begin FY16. OCQI working with MCDC on scoring processes for this to ensure strict adherence to State's RFP process.

   Maine CDC is currently preparing a Request for Proposals (RFP) for the next Healthy Maine Partnership initiative (HMP) funding cycle, with contracts to begin July 1, 2016 pending funding availability. Preparation for this RFP has consisted of the development and implementation of a formal Request for Information (RFI) process conducted through a contracted provider.

   The RFI was designed to give Maine CDC broad community input into the programming, structure, and funding distribution for the HMP initiative. The RFI process has been completed and the contractor is working with Maine CDC staff in formatting and analyzing the data. Planned next steps are determination of actual HMP programming, and the integration of structure and funding information gathered from the RFI into an RFP format. The RFP development process will also include consideration of applicant eligibility, proposal content, and the scoring process. The RFP development process will include multiple reviews of materials, development of performance measures and the submission/review process; The Office of Continuous Quality Improvement will be engaged in various stages of the RFP development and review process.

   The RFP development process is following the guidance of Division of Contract Management in order to have a RFP process completed in time for July 1, 2016 contracts. The expected timeline has the RFP development process completed by fall 2015, release of the RFP late fall 2015, and applications due winter 2015-2016.

2. The DHHS Legal team working with State Archives to review and update DHHS records management policies and practices.

As has been noted, not only in the OPEGA report from December 2013, but in subsequent discussions with the Government Oversight Committee by members of state government including the Secretary of State, records retention and archives is a major issues across state government and not isolated to DHHS. This appears to be an extremely under-resourced area of state government.

The Department recognizes the critical nature of having appropriate policies and procedures in place to manage public records. We take this very seriously and are undergoing myriad efforts to improve in this area.

To begin addressing this significant issue, the DHHS legal team, along with input from State Archives and the state's Public Access Ombudsman, has developed a comprehensive records management training that is available online for all DHHS staff. DHHS General Counsel, along with the Public Access Ombudsman and State Archive staff presented this training to more than 80 senior managers at DHHS. This is now being used as a model for other state agencies.

The Department has also completed an inventory of active, Commissioner-appointed Records Officers across DHHS. Currently there are nine dedicated Records Officers within DHHS. Two in the Commissioner's Office, one at the Office of Child and Family Services, two at the Office of Aging and Disability Services, two at the Maine Center for Disease Control, one at the Office for Family Independence and one at Riverview Psychiatric Center. The Department anticipates adding additional Records Officers for other DHHS offices in the near term.

The Department has also completed an inventory of all current records center cardholders. Cardholders have access to the records belonging to the unit in which they work at the time they apply for their card. Access cards do not expire. There are eleven cardholders still holding cards that would allow them access to information they no longer are entitled to access. Termination of these cards is in process. The Department is establishing procedures to undertake an inventory every quarter (since DHHS experiences about 3 personnel actions per day) in order to ensure our cardholders are accessing only records appropriate to their work.

Other ongoing work includes updating of records retention schedules across offices within DHHS to ensure that records are managed appropriately. This is a significant and time consuming process and will take time to bring current in each office across DHHS.

As has been noted by other individuals at the Government Oversight Committee, records retention as a whole in Maine government is an area that needs ongoing improvement. The Department is wholly committed to this important effort.

3. DHHS was working on establishing quality performance measures for partners including HMPs.

   There have been process measures developed and implemented to monitor the performance of HMP's. A significant portion of performance measurement work is incorporated in the work done around Requests for Information and Requests for Proposals. These aligned efforts go hand in hand to ensure that contracts are properly awarded and that those contracts are based in quality measurements of performance to ensure the desired outcome for the dollars spent.

   Additionally, resources have been dedicated to assist in the crafting of the RFP that will include the development of new performance measures, with a particular focus on measuring improved population health outcomes. OCQI will work with the CDC on the development and refinement of these measures.

If you have additional questions please don't hesitate to let me know.

Sam Adolphsen
Chief Operating Officer
Maine Department of Health and Human Services

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February 5, 2016

Beth Ashcroft
Director
Office of Program Evaluation and Government Accountability

Director Ashcroft,

This letter is the Maine Department of Health and Human Services response to your questions regarding corrective actions taken from the 2013 Report on Healthy Maine Partnerships.

Below we list each question followed by our response.

1. The April report said DHHS expected to issue the RFP in late fall 2015 for the next round of HMP contracts to begin July 2016. Has the RFP been issued yet? If so, when was it issued and could you please provide a copy of it, or a link to it if it can be found on the web? If it has not yet been issued, can you provide a date when it is expected to go out and do you have a draft of it that you could share confidentially with us?

   Response:
   No, the RFP has not been issued yet. We expect to issue the HMP RFP by the end of February 2016.

2. Has DHHS completed the task of assigning current Records Officers for all DHHS offices? If not, please provide a status of the effort and when it is expected to be completed. Please provide a list of all Records Officers that are currently assigned with their name, title and office.

   Response:
   This task is near completion. Of the Department's 6 largest offices (OMS, CFS, OADS, SAMHS, MCDC and OFI) we have four appointed records officers. Until we have a chance to work with SAMHS on their records management program, Peggie Lawrence is serving as their interim Records Officer. DHHS has not yet had an opportunity to do an assessment of OMS' Records Management program. Records Officers are as follows:

   - Robert Blanchard, Associate Director of OCFS
   - Cynthia Sasseville, Administrative Assistant, OCFS
   - Doreen McDaniel, Associate Director for Central Operations and Support, Office of Aging and Disability Services

- Elaine Lovejoy, Administrative Assistant, Maine Center for Disease Control and Prevention
- Diane Grover, Administrative Assistant, Office for Family Independence
- Frank Haggan, Director, Disability Determination Services
- Jerry Joy, Director, Division of Support Enforcement and Recovery, Office for Family Independence
- Lucretia Clavet, Division of Licensing and Regulatory Services
- Katherine Veilleux, Administrative Assistant, Commissioner's Office
- Peggie Lawrence, Administrative Assistant, Commissioner's Office

Here is the link to the Maine State Archives' page where they list Agency Records officers: http://www.maine.gov/sos/arc/records/state/recordsofficers.html

Note that both Records Officers *and* Assistant Records Officers are listed here. Also, the headings represent both Offices(Bureaus) and Divisions within DHHS, and that's based on the size of the presence of the units in the realm of records management.

3. Has DHHS completed the task of updating the inventory of current records center cardholders and terminated access for those who should no longer have it? If so, please provide the current list of cardholders. If not, please provide a status of this effort and when it is expected to completed?

   Response:
   In the period between March and July 2015 DHHS conducted a complete cardholder inventory and terminated access for 70 cardholders. DHHS has requested an updated list of cardholders from the Maine State Records Center (this is something they must generate for us from their database) and will use that for the next inventory.

4. Has DHHS established the planned procedure to do an inventory of cardholders every quarter? If so, is the procedure in writing and could you provide a copy? If not, what is the status of this effort and when is it expected to be completed?

   Response:
   DHHS's plan is to utilize Records Officers to conduct quarterly inventories and plan to begin the first quarterly inventory before the end of February 2016.

5. Have the performance measures been developed and implemented for monitoring the performance of the HMPs? If so, we would like to have a document that shows what they are – if they have been incorporated into the RFP and you can send us the RFP then that would suffice. If they are not in the RFP, or you don't yet have the RFP to share, is there some other document you could share that would illustrate the work being done on that or the final measures that were established?

   Response:
   Yes the performance measures have been developed and they are as follows:

The Successful Bidder(s) will be responsible for achieving the following required measurable targets of the 2016 – 2021 grant cycle. The targets are measured as the data point expected to be achieved by 2021, not as a percent decrease from the current rate. These are the long-term outcomes for which the Successful Bidder(s) will be held accountable. As part of the contract negotiation and implementation process, the Department will work with the Successful Bidder(s) to determine interim measures demonstrating progress toward the long-term outcomes. Interested Bidders are required within their application to propose interim measures as well as targets for every contract cycle during the entire grant period. These results are for the State level. The Successful Bidder(s) will be required to develop District-level results in consultation with the respective DCCs that will be reported on at minimum an annual basis. District-level results will be expected to achieve the desired Statewide results required of the Successful Bidder(s).

The data sources for these outcomes are two of Maine's surveillance instruments (BRFSS and MIYHS). Tobacco outcomes are in alignment with, but further, the goals as set in Healthy Maine 2020. Alcohol, Marijuana and Prescription Drug Abuse results are in alignment with the goals set in the Partnerships for Success grant maintained by SAMHS. This grant is awarded until 2020; the Department reserves the right to re-determine these results for the year 2021 based on a reassessment of available resources after the 2020 timeframe.

1. Youth (Middle School)
   a. Exposure to Secondhand Smoke in the Home – 20%
   b. Current Alcohol Use – 4%
   c. Current Marijuana Use – 2%
   d. Current Prescription Drug Abuse – 2%

2. Youth (High School)
   a. Current Any Tobacco Use – 12%
   b. Current Alcohol Use – 22%
   c. Current Marijuana Use – 18%
   d. Current Prescription Drug Abuse – 4%

3. Young Adults
   a. Illicit Opioid Use
   b. Current Cigarette Use (over 18 years) – 14%
   c. Current Alcohol Use (18-20 years) – 32%
   d. Current Marijuana Use (18-25 years) – 21%
   e. Current Prescription Drug Abuse (18-25 years) – 7%

Please let me know if you need additional information at this time.

Sincerely,
Sam Adolphsen
Maine DHHS - Chief Operating Officer

Economic Development Programs in Maine

Recommendations/Issues Identified for Potential GOC Action as of October 15, 2015

A. Need to Improve Efficiency, Effectiveness and Value of DECD's Future Evaluations of Economic Development Programs

1. Combine separate statutorily required Research and Development Programs Evaluation and Comprehensive Economic Development Evaluation into one evaluation (statutory change)

2. Establish timeline for the evaluation that provides increased opportunity for legislative review, consideration and action on reported results or related initiatives proposed by DECD (possible statutory change)

3. Ensure there is an adequate level of funding available to accomplish the evaluation on the desired timeline (reconsideration of current funding mechanism and possible statutory change)

4. Further define and clarify scope and expectations for the DECD evaluation (possible statutory change)

5. If part of the scope of the evaluation is to determine how well the State is achieving its economic development strategy (goals and objectives), then establish a requirement that a formal, public, current economic development strategy must be developed and maintained (statutory change)

6. Establish function, process and tools for DECD to efficiently and regularly collect from benefitting organizations the data/information needed to monitor and evaluate program activity and effectiveness for ALL economic development programs in the State's portfolio/inventory (this will likely require additional DECD resources on on-going basis and one time resources to design and build the process and tools that would support this function including determining what data needs to be collected – may require statutory changes)

7. Establish mechanism that gives DECD, and others as necessary, authority and clout to compel organizations to provide the data requested (statutory change)

8. Establish expectation and process for ensuring DECD evaluations of economic development programs and OPEGA evaluations of tax expenditures are coordinated and complementary rather than duplicative (statutory change)

9. Establish expectation, responsibilities and mechanism for ensuring results and recommendations from DECD evaluations are considered and acted on as appropriate by Administration and/or Legislature (statutory change)

B. Ensure Administration and/or Legislature, as appropriate, fully reviews and considers results and recommendations from most recent DECD evaluations reported on in 2014.

1. Determine who should be responsible for this and establish a process and time line for consideration of these reports.