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MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

March 13, 2015

Richard W. Rosen, Commissioner
Department of Administrative and Financial Services
78 State House Station
Augusta, Maine 04333-0078

Dear Commissioner Rosen,

In December 2013, the Office of Program Evaluation and Government Accountability (OPEGA) released the report from its review of Healthy Maine Partnerships' FY13 Contracts and Funding. Since that time, the Government Oversight Committee has been considering what actions should be taken to address a number of issues identified in that report and through our committee's subsequent public inquiry of Maine Center for Disease Control (CDC) officials in March 2014.

One of the issues identified was a lack of State-wide expectations and guidance for situations where agencies are making changes to funding on grants or contracts that were awarded to multiple competing entities from a single Request for Proposal (RFP). For example, in the situation OPEGA reviewed, CDC faced a funding cut to the Healthy Maine Partnership program that affected grants to 28 organizations that had all received those awards through one competitive bid process. The funding cuts were realized during the renewal of the original grants. The funding cuts were not distributed equally across all 28 organizations, nor were they distributed on the funding formula that served as the basis for determining the original grant award amounts. Instead, CDC changed the organizational structure for the service delivery system and re-distributed funding to nine organizations based on the new structure without a new Request for Proposal process.

At the GOC's direction, OPEGA has explored options for enhancing existing procurement guidance to address situations like that faced by the CDC. This included reviewing current procurement statute, as well as Rules and policies established by the Division of Purchases in the Department of Administrative and Financial Services (DAFS). The Office also discussed the existing guidance and options for enhancements with the Division of Purchases.

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As a result, the GOC recommends that DAFS Division of Purchases take the following actions:

A. Revise Chapter 110 Rules (Rules for the Purchases of Services and Awards) to include the term "grant" wherever the term "contract" appears, as applicable, or otherwise define the term contract to encompass grants. This would help clarify that all requirements in the Rules apply to grants as well as contracts. The Division of Purchases indicated it was in the process of proposing other revisions to Chapter 110 and could potentially incorporate these changes as well.

B. Revise the Purchases Policy on Contract Renewals and/or Amendments to clarify that the policy also applies to grants and to add guidance on situations where, through renewal or amendment, there are going to be decreases or shifts in funding among multiple original awardees. Such guidance should require that any decreases or shifts in funding accomplished via a renewal or amendment to original contracts and grants must be:
   a. directly related to elimination of, or decrease in, goods and services to be provided by awardees;
   b. directly related to unacceptable performance of one or more awardees; or
   c. distributed among awardees equally or on same basis as the original distribution of funding.

   Decreases or shifts in funding among multiple awardees on any other bases would require a new Request for Proposal. The new guidance would also require the maintenance of documentation that shows how decreases or shifts in funding were distributed among awardees via the renewal or amendment, and a written justification for those determinations.

We appreciate your consideration of these recommended actions and request that you provide a **response by Friday, April 3, 2015** as to whether you intend to implement them. OPEGA Director Beth Ashcroft is available to answer any questions you may have or to discuss these matters with you further.

Sincerely,

Senator Roger Katz
Senate Chair

Representative Chuck Kruger
House Chair

Cc: Mark Lutte, Director of the Division of Purchases, DAFS
Edward Dahl, Director of Bureau of General Services, DAFS
Alex Willette, Director of Legislative Affairs and Communications, DAFS