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The Honorable Craig Hickman
The Honorable Jessica Fay
Government Oversight Committee
c/o Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333

June 17, 2024

Dear Government Oversight Committee Members,

I am writing to request that the Government Oversight Committee consider an OPEGA evaluation of the State of Maine's procurement process for goods and services. In light of recent news reports regarding high-profile impacts of procurement outcomes as well as anecdotal conversations shared with me by constituents, I am making this request.

In 2008 an evaluation was done of this process and OPEGA identified several areas for potential improvement. It makes sense to revisit that report to ask how the process has improved outcomes both for State agencies and for potential vendors and bidders. Updating and expanding that evaluation given the significant impact the work that contracts have on Maine people's wellbeing would be time well spent. I encourage the Committee to include any agency or Department with the ability to issue contracts and procure so that the Legislature has a full picture.

As we discuss what a scope of work might look like, I hope that the Committee might consider some of the following:

- Criteria and rationale for no-bid contracts
- Is communication between DAFS and the agencies making the procurement requests sufficient?
- Is there efficient and meaningful feedback provided to unsuccessful bidders when requested?
- Criteria for awarding contracts and how we measure up to conventional best practices
- Do procurement practices differ by Department?
- How were the 2008 OPEGA recommendations addressed?
- Any other questions regarding contracts and procurement that OPEGA identifies

An OPEGA evaluation will allow us a deeper understanding of state procurement and create a positive discussion of how that process might be made to work better for both government and the public. I look forward to discussing this issue with the committee and with OPEGA.

Best Regards,

A handwritten signature in blue ink, appearing to be 'JF', with a stylized flourish extending to the right.

Rep. Jessica Fay



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
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SERVING THE PUBLIC AND DELIVERING ESSENTIAL SERVICES TO STATE GOVERNMENT

JANET T. MILLS
GOVERNOR

KIRSTEN LC FIGUEROA
COMMISSIONER

June 26, 2024

Senator Craig Hickman
Representative Jessica Fay
Government Oversight Committee
c/o Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333-0082

Dear Senator Hickman, Representative Fay, and members of the Government Oversight Committee,

The Department of Administrative and Financial Services is in receipt of Representative Fay's request that the Government Oversight Committee consider an OPEGA evaluation of the State of Maine's procurement process for goods and services.

Procurement's purpose is to provide a competitive, open and transparent process that yields the best value when spending taxpayer dollars. But admittedly, the knowledge about how that objective is accomplished resides with a small, highly specialized group of public servants, and outside of those who regularly engage in the competitive bid process it can look complicated, intimidating, and difficult to break into. Procurement is one of those areas of State government that legislators don't pay a lot of mind to until, either: a business in their district feels aggrieved they didn't win a State contract, or a high-profile appeal gains the news media's attention. Even before the State and Local Government Committee, which is DAFS' committee of jurisdiction for the Bureau of General Services, Office of Procurement Services, the State of Maine's procurement laws, rules and processes are rarely a topic of discussion.

DAFS takes seriously the right of citizens to both understand and engage with their government and would welcome the opportunity to provide the GOC with an overview of the principles that guide State procurement, the processes and standards that the Office of Procurement Services staff are charged with upholding, and improvements the Office is already implementing. DAFS believes that we can satisfactorily answer the questions posed in Representative Fay's letter as well as those that may arise during an open dialogue with the Committee. This could either serve to focus the Committee's direction to staff if you move forward with an OPEGA evaluation, or potentially, allow you to determine that OPEGA's resources are better committed elsewhere.

In providing this initial response, we want to briefly touch on the general causes for concern cited in Representative Fay’s request.

When a business in your district reaches out to you because they feel they should have won an award, DAFS fully recognizes the tension that exists between the best value for the taxpayer’s dollar and the impact on that business and perhaps your district more broadly. Government contracts are big business; they often guarantee a substantial amount of work and can be worth a lot of money. Winning a State contract can present a transformative opportunity for a growing business. For businesses heavily engaged in government contracting, their workforce levels often fluctuate with the volume of work secured. And unfortunately, losing a contract that a business has become accustomed to receiving can be devastating. However, it should also be recognized that Procurement receives an approximate average of six submissions per solicitation, so it is a simple mathematical reality that the competitive bid process yields more disappointed participants than winners.

Award decisions must be justified and are well documented, so if a business in your district isn’t the prevailing bidder, they should be aware that all participating bidders are entitled to receive and review their competitors’ bid submissions and the review panel’s scoring packets. Only about 20% of bidders request these materials, but there is valuable insight to be gleaned from this public information and bidders may learn how to be more successful in future bid submissions from studying them. System upgrades in the process of being implemented will make these documents easily downloadable from the State’s Vendor Self Service Portal, like commodity RFQs and contracts already are. Finally, if an unsuccessful bidder still feels like the award was fundamentally unfair, they can appeal.

There have been a couple of high-profile appeals recently, which may seem concerning, but from DAFS/Procurement’s perspective, appeals are a routine part of an open, fair, and transparent process—in and of itself, an appeal is not indicative of a systemic issue. Procurement’s adherence to process and standards is intended to minimize the number of awards appealed and subsequently the number of awards invalidated. However, Procurement administers more than 200 competitive RFP/A/I processes annually and on average four awards (2%) will be appealed, with more than half of those awards validated upon appeal. It’s also true that the total value appealed tends to account for a disproportionate percentage of the total value of all awards—this is because it’s often worth filing an appeal simply due to the value of the contract at play, either for the unsuccessful bidder’s own benefit or to deny a competitor the benefit. The chart that follows demonstrates that a small number of appeals focus on high stakes awards.

CY	RFP	RFA	RFI	Other	Total	Total Value	Appeals	Appeals Value	Invalidated
2022	160	45	3		208	\$378,233,334	4	\$ 31,775,977	2
2023	198	49	6	1	254	\$265,992,263	4	\$76,050,000	1
2024 (YTD)	80	22	1	1	104	\$88,840,517	3	\$2,445,000	all pending

The appeal process also provides an opportunity for Procurement’s work to be reviewed and the means to acknowledge and correct our mistakes in the small number of cases when an incorrect determination was reached, or the process wasn’t open, fair, and transparent.

Finally, we hope that at a future date the GOC will allow us the opportunity to highlight the initiatives and systems upgrades the Office of Procurement Services has spearheaded upon identifying their own potential for improvement.

- As previously alluded, budget funding has been provided for the implementation of a new vendor portal for RFP/A/I solicitations that will replace the legacy website posting and email response system, facilitate online bid submissions, and make procurement documents easily downloadable consistent with the public's modern information accessibility expectations.
- Procurement is in the content creation phase of a training and certification program for the educational benefit of the State departments and agencies they serve. Both instructor led and asynchronous modules will be deployed through the new statewide Learning Management System (LMS) launching in the next year.
- Procurement has also launched the Maine Accessible Procurement (MAP) initiative. The goal of this initiative is to make the procurement process accessible to a full range of vendors and to pull in new participants. Expanding the pool of businesses and organizations bidding on State contracts increases competition both with regard to quality of services proposed and cost containment. It also spreads the financial benefit of State contracting more broadly throughout all of Maine's communities.

All of this is evidence that the Office of Procurement Services is a reflective and forward-thinking organization that accepts and is responsive to feedback. DAFS/Procurement looks forward to engaging fully with the GOC in a conversation about the State's procurement of goods and services.

Respectfully,



Kirsten LC Figueroa
Commissioner

Previous OPEGA Report Summary

State Contracting for Professional Services: Procurement Process—Practices Generally Adequate to Minimize Cost-related Risks (September 2008)

Scope of Review

In 2008, OPEGA completed a review of state contracting for professional services. The purpose of the review was to identify any opportunities to reduce costs associated with professional services contracts by examining whether the state employed appropriate procurement practices for limiting the extent of professional services contracting and assuring the state was contracting at reasonable rates.

The scope of OPEGA's study included:

- Assessing the state procurement process and associated controls;
- Interviewing staff from the Division of Purchases in the Bureau of General Services (BGS) and from the DHHS;
- Querying the state's MFASIS data warehouse to identify active contracts for *Professional Services Not Provided by the State* from fiscal year 2007; and
- Reviewing contract files for a random sample of 295 contracts.

OPEGA concluded that the state generally had appropriate practices for limiting the extent of professional services contracting and assuring it was contracting at reasonable rates. OPEGA did not believe there were significant savings to be achieved through changing current practices for procurement of professional services but did suggest strengthening existing controls to enhance accountability and transparency. OPEGA made four findings and recommendations, detailed on the following page along with agency actions taken in response. OPEGA considered all recommendations implemented or affirmatively addressed as of 2011.

Recommendations and Agency Response

Finding	Recommendation	Actions Taken
1. Documented justification for sole source contracts was often minimal.	Agencies seeking sole source contracts should be required to submit to the Division of Purchases written justifications that more fully explain how their situations meet the criteria for sole source procurement, particularly when the proposed contracts are above the statutory open market limit of \$10,000.	Division of Purchases memo to Department Heads, Bureau/Division Directors, Contract Administrators and Contract Managers dated 12.10.09 (effective 1.1.10) indicated that: <ul style="list-style-type: none"> • More specific justification would be required from any agency requesting sole-source or non-competitive contract awards; and • Regarding contract renewals and amendments, the Division of Purchases had developed written procurement policies to establish and make clear the standard limits that apply to contract renewals and amendments and clarifying when re-bidding or additional review is required.
2. Lack of policies limiting contract renewals and amendments.	Formal policies should be developed regarding contract renewals and amendments that set standard limits defining when rebidding rather than renewing or amending is required. Requests for renewals exceeding these limits should be subject to more rigorous justification and review.	
3. Cooperative Agreements (between state and the UMaine & Maine Community College System) may pose financial risk.	Because it was outside the scope of review, OPEGA recommended that a more in-depth evaluation be conducted by OPEGA, the State Auditor or State Controller, or a legislative policy or special study committee.	The Office of the State Controller (OSC) launched a general review. However, this review was put on hold in July 2009 due to the OSC's Internal Audit Division being tasked with oversight of the State's American Reinvestment and Recovery Act funding. In April of 2010, the OSC indicated to OPEGA that, prior to being put on hold, the OSC had taken certain corrective actions, but it is not clear whether the review was ever completed. On November 22, 2011, the Governor issued Executive Order No. 26 FY 11/12 providing that BGS was not permitted to waive competitive bidding on the basis that the purchase was part of a cooperative project between the State and UMS or MCCS unless BGS had the Governor's written approval.
4. Apparent inconsistencies in Executive Order.	Apparent inconsistencies between Executive Order No. 7, FY 94/95 (the policy document on which some of the Division of Purchases' purchasing procedures were based), statute, and procurement practices regarding acceptable waivers from competitive bidding and the role of the State Purchases Review Committee should be resolved.	The Director of Purchases committed to pursuing resolution of the apparent inconsistencies identified between statute, policy documents, and procurement practices through the Commissioner of DAFS and the AFA committee, as appropriate. One of the policy documents at issue - Executive Order No. 7 FY 94/95 - was superseded by Executive Order No. 07 FY 10/11 effective March 16, 2010, which established the State Procurement Review Committee. ¹

¹ EO Order No. 7 FY 10/11 was then repealed by Executive Order No. 2016-001 https://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Executive_Orders&id=671521&v=article2018 effective March 3, 2016, which re-established the State Procurement Review Committee. The State Procurement Review Committee was established in the statute (5 MRSA §1824-B) pursuant to Public Law 2021, chapter 332, section 4. Whether there are currently any inconsistencies would require further analysis.

Performance
Audit

FINAL
REPORT



State Contracting for Professional Services: Procurement Process – Practices Generally Adequate to Minimize Cost-related Risks

Report No. SR-SAS-07

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

September
2008

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ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

The Office of Program Evaluation and Government Accountability (OPEGA) was created by statute in 2003 to assist the Legislature in its oversight role by providing independent reviews of the agencies and programs of State Government. The Office began operation in January 2005. Oversight is an essential function because legislators need to know if current laws and appropriations are achieving intended results.

OPEGA is an independent staff unit overseen by the bipartisan joint legislative Government Oversight Committee (GOC). OPEGA's reviews are performed at the direction of the GOC. Independence, sufficient resources and the authorities granted to OPEGA and the GOC by the enacting statute are critical to OPEGA'S ability to fully evaluate the efficiency and effectiveness of Maine government.

Legislators, committees, or members of the public should make their requests for reviews to members of the Committee or OPEGA directly.

Copies of OPEGA's reports are free.

Reports are available in electronic format at:

<http://www.maine.gov/legis/opega/>

Hard copies of reports may be obtained by contacting OPEGA at:

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Office of Program Evaluation & Government Accountability

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EXECUTIVE SUMMARY

State Contracting for Professional Services: Procurement Process – Practices Generally Adequate to Minimize Cost-related Risks

The Maine Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a review of State contracting for professional services. OPEGA conducted this review at the direction of the joint legislative Government Oversight Committee (GOC), in accordance with 3 MRSA §§991-997.

OPEGA chose a subset of State contracts, those identified as Professional Services Not Provided by State, to review for this project. State agencies are responsible for defining their need for a professional service, initiating and justifying the process by which they propose to find a contractor and determining whether an existing contract needs to be amended for time, cost or scope of work. The Division of Purchases (Purchases) functions as the control over the entire process.

OPEGA concluded that the State generally has appropriate practices for limiting the extent of professional services contracting and assuring the State is contracting at reasonable rates. Given our results, we do not believe there are any significant savings to be achieved through changing current practices for professional services procured through Purchases. We do, however, suggest further strengthening existing controls to enhance accountability and transparency. We also recommend a comprehensive review of Cooperative Agreements between the State and the University of Maine and Maine Community College Systems that under statute are exempt from competitive bidding.

Specific findings noted in this report are:

- documented justification for sole source decisions exists but is often minimal;
- a lack of policies limiting contract renewals and amendments;
- Cooperative Agreements may pose a financial risk; and
- apparent inconsistencies between statute, policy documents, and current procurement practice.

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FULL REPORT**State Contracting for Professional Services: Procurement Process – Practices Generally Adequate to Minimize Cost-related Risks****Purpose**

The Maine Legislature’s Office of Program Evaluation and Government Accountability (OPEGA) has completed a review of State contracting for professional services. OPEGA conducted this study at the direction of the joint legislative Government Oversight Committee (GOC), in accordance with 3 MRSA §§991-997.

OPEGA focused on whether current procurement practices minimize costs for professional services by assuring that those services are necessary and purchased at reasonable rates.

This review was included in OPEGA’s biennial workplan as part of a broader effort to identify opportunities for improving the State’s financial situation. Conducted in conjunction with OPEGA’s study of State Administration Staffing, it was intended to focus on contracts for services supporting executive level functions. The category of contracts with expenditures coded as *Professional Services Not Provided by State* in the State’s accounting system encompasses the majority of the contracts of interest, and became the subject of this review.

The GOC directed OPEGA to identify whether there were opportunities to reduce costs associated with professional services contracts by examining whether the State employs appropriate procurement practices for:

- limiting the extent of professional services contracting; and
- assuring the State is contracting at reasonable rates.

Methods and Scope

The scope of OPEGA’s study included all Executive Branch agencies, the Constitutional Offices, the Judicial Branch, many boards and commissions, and a number of quasi-independent agencies. Our work included:

OPEGA reviewed procurement processes and controls; analyzed contracting activity; and examined documentation for a random sample of 295 contracts.

- understanding the State procurement process and controls in that process;
- interviewing staff from the Division of Purchases in the Bureau of General Services, and from the Department of Health and Human Services;
- querying data from the State’s MFASIS data warehouse to identify active contracts for Professional Services Not Provided by State, accounting object codes 4000 through 4099, from State fiscal year 2007;

- reviewing contract files for a random sample of 295 contracts from a total population of 3,825 professional services contracts identified through our query; and
- analyzing data obtained through that review.

Table 1 lists the agencies with contracts in our sample and the number of contracts for each. The contract files we reviewed were those held by the Division of Purchases in the Bureau of General Services.¹ We examined the documentation in each of the 295 files for:

- type of service procured;
- procurement method used;
- written sole source justification if required;
- funding source;
- life-time cost of the contract;
- existence and nature of any amendments; and
- evidence of compliance with procurement policies and procedures.

Table 1. Number of Contracts Included in Sample by Agency

AGENCY	#	AGENCY	#
Department of Health and Human Services	47	Department of Labor	6
Department of Inland Fisheries & Wildlife	42	Secretary of State	6
Department of Education	20	Judicial Department	6
Department of Conservation	18	Department of Transportation	5
Department of Administrative and Financial Services	16	Department of Agriculture	4
Public Utilities Commission	15	Atlantic Salmon Commission	4
Department of Environmental Protection	12	Workers Compensation Board	3
Department of Defense, Veterans and Emergency Management	12	Maine Arts Commission	3
Executive Department	11	Dirigo Health	3
Department of Public Safety	11	Maine State Library	2
Department of Corrections	10	Department of Economic and Community Development	1
Department of Marine Resources	9	Treasurer of the State	1
Department of Professional & Financial Regulation	8	Maine State Museum	1
Attorney General	8	Maine Historical Preservation Commission	1

¹ The Bureau of General Services and the Division of Purchases are within the Department of Administrative and Financial Services.

Background

Procurement Process Overview

Current procurement practices are governed by statute, agency rules and Executive Order No. 7, FY 94/95.

The procurement function in Maine State government is somewhat centralized with the decision to contract for a service being made in the agencies, and reviews and approvals occurring within the Division of Purchases. State agencies are responsible for defining their need for a professional service, initiating and justifying the process by which they propose to find a contractor and determining whether an existing contract needs to be amended for time, cost or scope of work.

Maine State agencies may contract for professional services if the service required meets one of a number of specified criteria detailed at 5 MRSA §1816-A.1.A-H. These criteria include:

- services not currently available within the State;
- purpose can not be accomplished by using persons within the civil service system; or
- services which are of such an urgent, temporary or occasional nature that delay would frustrate the purpose.

Agencies identify a need for services, select vendors, and develop contracts with guidance from the Division of Purchases (Purchases). Reviews and approvals of agency decisions and contracting documents occur in Purchases.

Statute² requires agencies to pursue contracts through the Division of Purchases (Purchases). The Division's primary function is to procure materials, supplies, equipment and services that represent the best value to the State of Maine. In performing this function, Purchases serves as both a support for agencies and a control to help assure contracting for services is appropriate and services are obtained at reasonable rates. Current procurement practices for professional services are also governed by agency rules, and Executive Order No. 7, FY 94/95, issued January 6, 1995.

The rules established by Purchases in accordance with the Maine Administrative Procedure Act can be found in the Code of Maine Rules Chapters 110, 120, 130, and 155. Generally they define the competitive procurement procedure, contract award appeals procedure, safe vendor working conditions, and the cost comparison procedure.

The Executive Order established the State Contract Review Committee, commonly referred to as the State Purchases Review Committee (SPRC), and set standards under which the SPRC could approve

State Purchases Review Committee Membership

- Director of the Division of Purchases (who serves as Committee Chair) or designee;
- Governor's Chief Operating Officer or designee;
- State Budget Officer or designee;
- State Controller or designee, and
- Chief Information Officer for contracts related to data processing.

² 5 MRSA §1811 and §1812.

Contracts over \$1 million receive an additional review from the State Purchases Review Committee (SPRC). Purchases may also request that the SPRC review other specific contracts.

service contracts, including criteria for when sole source procurement would be appropriate. The Executive Order requires the SPRC to act upon all State agency contract requests for proposals, contracts and contract renewals for special services, including professional services, valued at \$100,000 or more. The SPRC’s review is to assure that:

- the service to be performed under the grant or contract cannot be economically provided by State Government;
- the award of the grant or contract is the most economical, effective and appropriate means of fulfilling a demonstrated need; and
- the award of the grant or contract will not impair the ability of the department or agency to meet its statutory duties and responsibilities under other State laws.

The SPRC has delegated its review authority for contracts between \$100,000 and \$1 million to the Director of the Division of Purchases due to the volume of contracts over \$100,000. The Director of Purchases may request SPRC review of specific contracts between \$100,000 and \$1 million. Contracts of less than \$100,000 in value may be approved solely by the Director of the Division of Purchases. The degree of Purchases’ scrutiny of contracts and amendments increases with the dollar value.

Table 2 summarizes the roles of various parties for services procured through Purchases. Figure 1, on page 8, illustrates the typical process flow.

Table 2. Roles in the Procurement Process for Services Procured Through Division of Purchases

Party	Role
Contracting Agency	Identifies need; initiates contracting process; solicits and evaluates bids; selects vendor; prepares and executes contracts
Division of Purchases	Advises and guides agencies; reviews, approves and receives responses to RFPs; reviews agency vendor selection process; and reviews contracts for final approval
State Purchases Review Committee	Reviews selected contracts for services costing over \$100,000 and all contracts over \$1,000,000
Appeals Committee	Hears appeals of contractors not selected
Contractor	Provides bids and performs the work

Division of Purchases Role

In fulfilling its control function, Purchases is responsible for reviews and approvals at various points in the procurement process. The Division of Purchases reviews each agency request to procure professional services to assure it is appropriate to contract for the services. If so, Purchases reviews the proposed means of selecting a vendor to assure it is appropriate and in compliance with established policies and rules. Any Request for Proposal (RFP) that will be issued is also reviewed by Purchases, as is the agency’s subsequent evaluation of bids received. At each review point, Purchases has the authority to deny the agency’s request.

Purchases' reviews and approvals help assure procurements of professional services are necessary and are conducted in accordance with established policies and rules.

Contracts are executed, i.e. signed by agency and contractor representatives, prior to being submitted to Purchases for final review. However, contracts are not valid, and no payments may be made, until Purchases has approved them as per Section 20 of standard contract Rider B which states: *"This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document."* If work begins prior to contract approval, Purchases requires the agency to stop work until approval is granted. In addition, agencies enter contract information in the AdvantageME accounting system, but the system does not allow payments to be made until Purchases has approved the contract in the system.

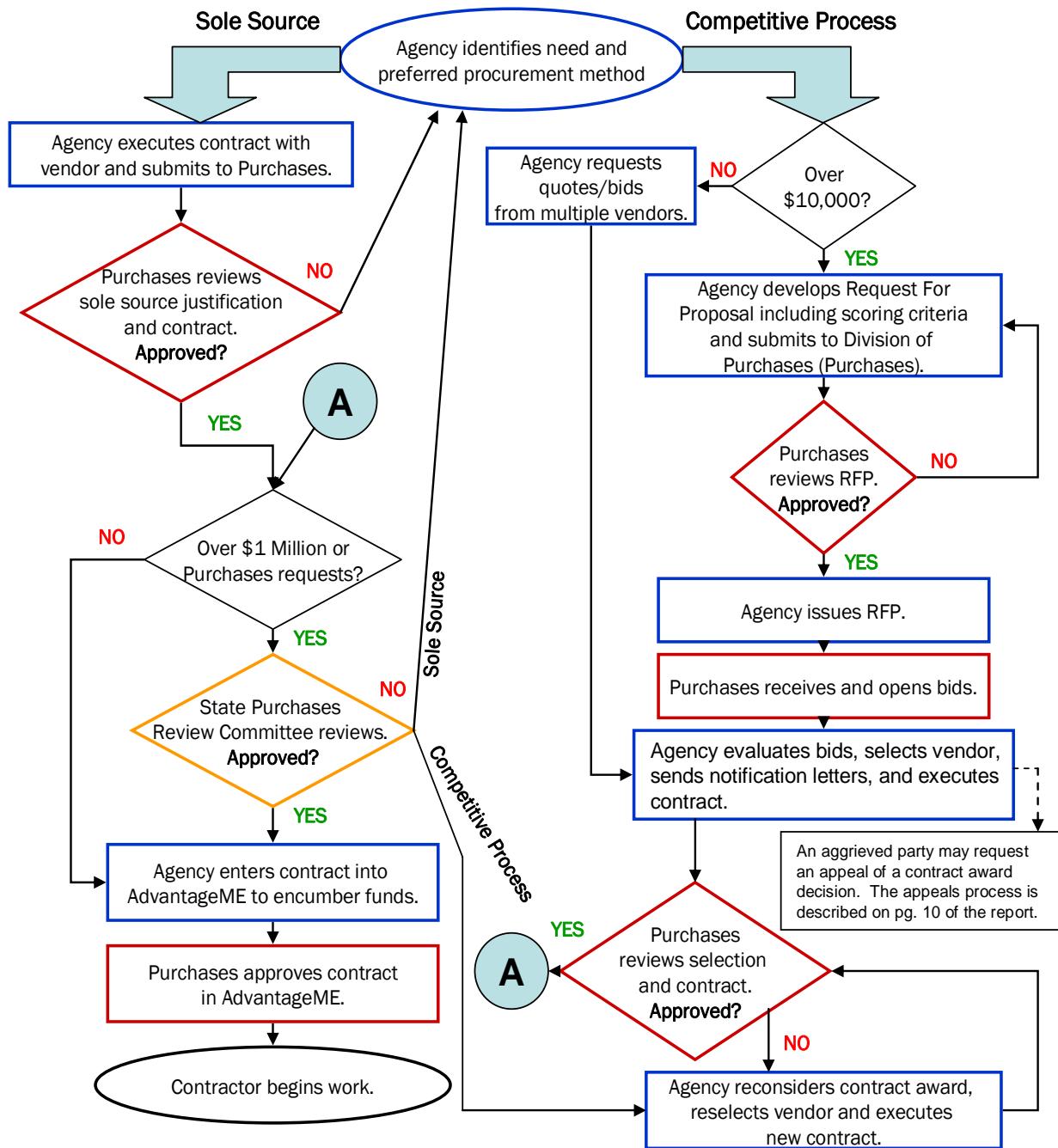
Purchases also reviews proposed amendments to existing contracts, on a case by case basis, applying the same criteria used to review the original contract. Each request for a contract amendment must be accompanied by a required form stating the nature of the amendment and reason for the proposed changes. Purchases reviews the original contract scope and RFP, if there was one, comparing both to the amendment request and looking for any changes in the amendment that go beyond the scope or time limit of the original agreement. Purchases may require the initiation of a new contract if an amendment differs significantly from the original contract.

Some agencies are allowed to procure services independently of Purchases. These contracts are not subject to review and approval by Purchases.

Some State agencies procure professional services independently of the Division of Purchases. For example, the Maine Department of Transportation has statutory authority as per 23 MRSA §4242 and §4243 to procure professional services associated with transportation infrastructure projects through its own process. Similarly, the Maine Public Utilities Commission is allowed by 35-A MRSA §3211-A to select service providers for energy conservation programs independent from the Division of Purchases. The PUC may employ either a competitive bidding process as outlined in PUC agency rules³ or procure through a sole source if the Commission makes certain findings prescribed in §3.B of the Rules. The Bureau of General Services also reviews and approves contracts for architectural and engineering services associated with construction projects. The Division of Purchases provides administrative services only for the Department of Transportation, the Bureau of General Services and the PUC in these instances.

³PUC Rules Chapter 381: Selection of Conservation Program Services Providers

Figure 1. Overview of Typical Procurement Process



Throughout the procurement process, Division of Purchases provides guidance to agencies as necessary and requests additional information as needed to make approval decisions.

Contractor Selection

Contractors generally must be selected by a competitive process if the estimated dollar amount of the contract is above the open market limit. Division of Purchases policy currently sets an open market limit lower than that set by statute.

The method by which contractors are selected depends upon the type of service and cost. 5 MRSA §1825 B.2.G establishes the State’s preference for competitive bidding and \$10,000 as the amount below which competitive selection is not required. During the time period that OPEGA’s sample was drawn from, the Division of Purchases had set an even lower threshold of \$2,500. This threshold was raised to \$5,000 on October 1, 2007 but is still below the statutory limit of \$10,000. A lower open market limit than statute allows is considered practical at this time by the Division of Purchases.

OPEN MARKET LIMIT

The amount below which competitive procurement is encouraged, but not required.

Competitive Procurement

If the estimated service cost is below the open market limit, Purchases encourages, but does not require, the agency to obtain bids. Written quotes are encouraged, but verbal quotes are sufficient. If the estimated cost exceeds the limit set by policy, a competitive process is required unless the agency can justify sole source procurement. Written quotes are required for services with expected costs between the open market limit set by Purchases policy and the statutory limit of \$10,000. A formal Request for Proposal process is required for contracts greater than \$10,000. Table 3 summarizes the competitive procurement requirements.

Table 3. Competitive Procurement Requirements

Cost of Service	Procurement Requirements	Review Responsibility
\$2500 or less	Competitive bids (verbal or written quotes) encouraged but not required	Contracting Agency selection
\$2500-\$10,000	Written quotes required unless sole source criteria met	Division of Purchases approval
\$10,000-\$100,000	Request For Proposal required unless sole source criteria met	Division of Purchases approval
\$100,000-\$1,000,000	Request For Proposal required unless sole source criteria met	Division of Purchases approval or State Purchases Review Committee approval if requested by Director of Purchases
\$1,000,000 or greater	Request For Proposal required unless sole source criteria met	State Purchases Review Committee approval

Requests For Proposals (RFP) are written by the contracting agency and must be reviewed and approved by Purchases prior to issuance. Purchases staff report rare instances where a RFP was issued prior to approval and had to be withdrawn. Purchases ensures that RFPs are clearly written, include the evaluation criteria, and describe how the criteria are weighted. According to Chapter 110, Rules for the Purchase of Services and Awards, cost of the contract must be included in the evaluation criteria, and must receive a minimum of 25% of the total weight of all criteria.

Purchases monitors the competitive selection process. Bidders who respond to a formal Request For Proposal but are not selected may appeal.

Proposals from potential vendors are received by Purchases, opened on the predetermined date and time and signed over to the agency for scoring. Agencies score proposals, select vendors, and develop contracts. They submit the contracts along with justifications for the selections, including proposal scoring sheets, to Purchases for approval and verification that scoring was done correctly. If it was not, the proposals must be scored again and the award must go to the correct bidder.

An appeals process allows non-selected bidders to request a hearing on the award decision from the Director of the Bureau of General Services. Appeals of contract award decisions must be submitted within 15 days of notification of contract award, and are heard by an Appeals Committee in accordance with Chapter 120, Rules for Appeal of Contract and Grant Awards. The Appeals Committee consists of three members. Two of them are appointed by the Commissioner of the Department of Administration and Financial Services (DAFS) and must be persons who do not have a direct or indirect personal, professional or financial conflict of interest in the appeal. They also cannot be employees of the agency affected by the contract. The third member is the Director of the Bureau of General Services or his designee.

If a hearing is granted, the Committee hears and views evidence and decides if one of the three appeal standards has been met:

- a violation of law;
- an irregularity creating a fundamental unfairness; or
- an arbitrary or capricious award.

The Committee may decide to either validate or invalidate the contract award decision under appeal.

Sole Source Procurement

5 MRSA §1825-B recognizes that there are situations in which competitive bidding may not be the most appropriate means of selecting vendors. The statute provides general waivers from competitive bidding for emergencies requiring the immediate procurement of goods or services as well as goods or services that appear to be available from only one source.

Agencies seeking to use sole source procurement must provide written justification to Purchases on a prescribed form or a coversheet accompanying the contract. If the justification is satisfactory and the situation meets the sole source criteria, the contract is approved. Additional information is requested by Purchases from the agency if the justification for sole source procurement is inadequate. If Purchases finds that the situation does not meet the sole source criteria, a competitive bid process must be used.

Statute and policy provide general waivers from competitive procurement for certain situations. Agencies desiring to procure from a sole source must submit justification to Purchases.

SPRC approval of sole source procurement is also addressed by Executive Order No. 7 FY 94/95. The Executive Order states that the State Purchases Review Committee may approve sole source procurement when:

- the service is available only from a sole source;
- is of such a narrow scope or constraint that the need can be met satisfactorily only by a single source;
- is of such a compelling urgency that government operations would be seriously impaired by delay inherent in following competitive procedures;
- or otherwise is the most economical, effective and appropriate means of fulfilling a demonstrated need.

There are some professional services contracts processed through Purchases in which the vendor has been pre-selected outside of the standard approval procedure. For example, there are contracts for services in which the vendor is already specified in the federal grant funding the service, and others that are collaborations between a State agency and another entity in which the non-state agency provides funding or services in kind.

In addition, statute waives the competitive bidding requirement for services related to cooperative projects between the State and the University of Maine System or the Community College System. The contracts for these projects are known as Cooperative Agreements and must involve:

- activities that assist a State agency and also enhance the ability of the Maine University or Community College System to fulfill its traditional mission in the areas of teaching, research, and public service; and
- a sharing of the project's responsibilities, and when appropriate, costs.

Purchases reviews Cooperative Agreements to help assure that services included meet these criteria.

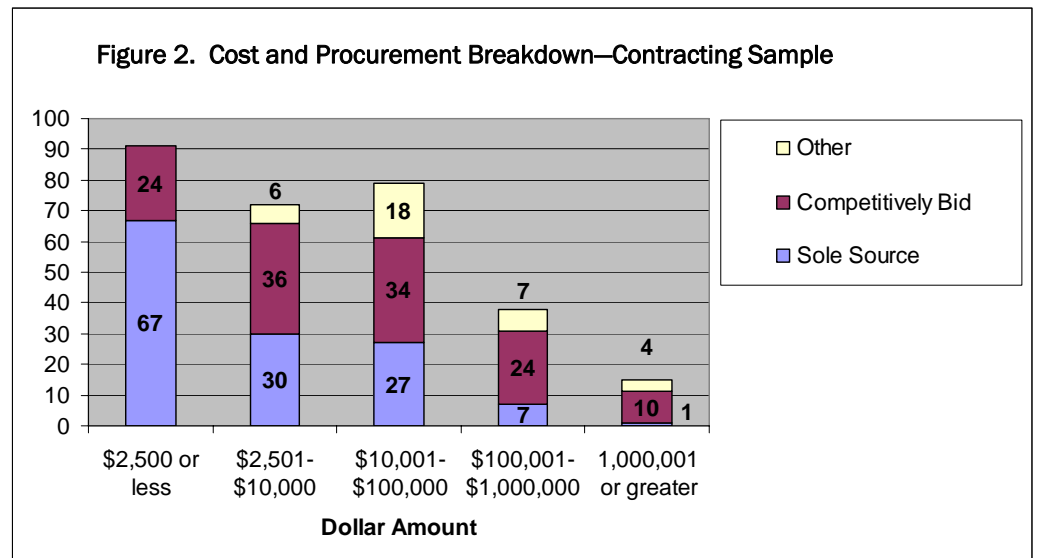
Statute also provides waivers for certain contracts such as those for services related to cooperative projects between the State and the University of Maine or Maine Community College System.

Conclusion

The State generally has appropriate practices for limiting the extent of professional services contracting and assuring contracts are at reasonable rates.

OPEGA concluded that the State generally has appropriate practices for limiting the extent of professional services contracting and assuring it is contracting at reasonable rates. These practices have their foundation in statute and, for the most part, are implemented through policies and procedures established by DAFS Division of Purchases. The Division of Purchases also fulfills a key control function in assuring adherence to policies and procedures through review and approval of agency contract requests and the awarding of contracts to specific vendors. Proposed contracts with higher dollar amounts appropriately receive more scrutiny than lower cost contracts with the most significant contracts also being reviewed and approved by the SPRC.

Fifty-one percent of the 204 professional services contracts for services costing over \$2,500 in our sample were awarded through a competitive process. In fact, 26% of the 91 contracts for \$2,500 or less had been through a competitive process even though it was not required.



Thirty-two percent of the contracts over \$2,500 had been approved by the Division of Purchases for sole source procurement and all were supported by documented justifications that met criteria established in Purchases’ policy. In addition, 17% of contracts over \$2,500 in our sample were either sole sourced under conditions that precluded Purchases’ approval or did not fall under the Division of Purchases’ jurisdiction. These are identified in Figure 2 and Table 4 as Other. Figure 2 illustrates the number of contracts in our sample by dollar range and procurement method. Table 4 shows the percentage breakdown of competitive versus sole source procurement.

Table 4. Contracts in OPEGA Sample - Number and Percent by Dollar Value and Procurement Method

Category	Number of Contracts	Percent in Category	Percent of Entire Sample
Below Open Market Limit of \$2,500	91	100%	31%
Sole Sourced	67	74%	23%
Competitively Bid	24	26%	8%
Above Open Market Limit of \$2,500	204	100%	69%
Sole Sourced	65	32%	22%
Competitively Bid	104	51%	35%
Other	35	17%	12%

Given our results, we do not believe changes to the current process for those services procured through Purchases would result in significant savings.

We do, however, suggest strengthening of existing controls to enhance accountability and transparency. We also recommend a comprehensive review of Cooperative Agreements.

Given these results, we do not believe there are any significant savings to be achieved through changing current practices for professional services procured through the Division of Purchases. We did note, however, that the effectiveness of Purchases’ review and approval is dependent upon the quality of information provided by the agencies regarding their need to contract for services and the justifications for sole sourcing or renewing and amending existing contracts. The Division of Purchases’ authority to deny a contract for service, require competitive procurement or deny a proposed amendment is also somewhat limited because it can be overridden by upper management. Consequently, we recommend some improvements that will strengthen the existing controls, bringing more accountability and transparency to the process and further reducing any risk that the State may be incurring unnecessary expense on any particular contract. We also recommend a more in-depth review of Cooperative Agreements to assure that financial risks associated with those contracts are properly mitigated.

For more detail on specific concerns, recommendations and planned actions, see the Findings and Action Plans section of this report.

We note that some agencies procure professional services through their own processes and those contracts are not subject to the Division of Purchases controls that were the focus of this review. These include:

- Bureau of General Services construction contracts;
- Department of Transportation construction contracts; and
- Public Utilities Commission Energy Conservation Program contracts.

It was outside the scope of this review to fully evaluate other controls that may exist for these contracts. However, unless these contracts are subject to other controls that effectively mitigate costs, they may represent a risk that the State is paying more than is necessary for the related services. We, therefore, encourage the Joint Standing Committees with oversight responsibility for these agencies to satisfy themselves that procurements of professional services in these agencies are also adequately controlled.

Findings and Action Plans

Finding 1 – Documented Justification for Sole Source Contracts Is Often Minimal

Agencies proposing to sole source for services that will cost more than the open market limit established by the Division of Purchases must state why a competitive process is not being used. Purchases reviews these justifications and approves or denies them. The effectiveness of Purchases' control role here is quite dependent upon the completeness and accuracy of the information provided by agencies. The Division does not have the resources necessary, nor should it be expected, to confirm the validity of these justifications for each sole source procurement request.

OPEGA reviewed 65 contracts for professional services over \$2,500 that had been procured from a sole source. All had a documented justification meeting the criteria for sole sourcing as defined in policy. However, there was often very little written explanation to support the justification. For example, the required form would indicate a contractor was the foremost expert in a particular field, but no additional information was included to indicate how the agency made this determination, or why using an outside expert was necessary. Consequently, Purchases often needed to ask for additional information from agencies before approving or denying sole source procurement. This consumes agency and Purchases resources and adds time to the contracting process. In addition, while OPEGA saw some evidence of meaningful exchanges between Purchases and the agencies, additional information gathered regarding the justification was not routinely documented. As a result, the official files did not always contain strong written sole source justifications.

The most common justifications for sole sourced contracts in OPEGA's sample were that a vendor:

- had exceptional expertise;
- was uniquely qualified; or
- was the foremost authority for the service.

To improve transparency and accountability for the sole sourcing decision, we recommend that agencies be required to submit to Purchases written justifications that more fully explain how their situations meet the criteria for sole source procurement – particularly for proposed contracts above the statutory open market limit of \$10,000. This documentation should be included in the official contract file. To improve efficiency in the procurement process, we further recommend that agencies be required to submit this enhanced written justification when the contract request is first submitted to Purchases. Purchases will then have more information available at the outset upon which to approve or deny a request for sole source procurement.

Management Action:

By June 30, 2009, the Division of Purchases will document its practices regarding the amount and type of justification required whenever an agency is requesting to award a contract pursuant to law but on a non-competitive basis. The rigor of the justification which is required for such requests will be related to contract cost and will be sufficient to allow a third party to understand what was considered by Purchases during the processing of the request. Purchases will inform agencies of the new requirements for documentation necessary for approval of sole source contract requests.

Finding 2 – Lack of Policies Limiting Contract Renewals and Amendments

The Division of Purchases reviews agency requests for renewals and amendments and either approves or denies them. Purchases' decision is currently a judgment call based on reviewing the proposed changes against the scope and time frame of the original contracts. There are no written policies regarding when contract renewals or amendments are appropriate, and no formal limit on the number of time extensions or cost increases allowed before re-bidding is required.

Sixty-six contracts (22%) in our sample had been amended, many more than once, and often for more than one reason. The average time extension was slightly over one year with the longest being 4 ½ years. Forty-eight of the contracts were amended for cost increases. Twenty-nine percent of the 48 contracts amended for cost increases doubled, or more than doubled, the original cost of the contract. We did not identify any pervasive concerns with the amendments reviewed, and we observed that Purchases does challenge agencies on the need for proposed renewals and extensions. We did however, note a couple irregularities in documentation, and instances of Purchases' determination that a contract be re-bid rather than amended being overridden.

Reasons for contract renewals and amendments in OPEGA's sample were:

- time extensions;
- funding increases;
- wording or scope changes; or
- a combination of the above.

Given the degree of activity we saw in our sample, we recommend formal policies be developed regarding contract renewals and amendments. Such policies should set standard limits on contract renewals and amendments that define when re-bidding is required, i.e. the number of amendments, length of time extension or percent of cost increases. Requests for renewals and amendments that exceed these limits should be subject to more rigorous justification and review, perhaps by the State Purchases Review Committee. We believe such policies will generally improve accountability and provide support for Purchases' decisions, thus enhancing the effectiveness of its review and approval role. Stronger policies will also help further reduce any risk of the State spending more resources than necessary on services that are extended rather than re-bid.

Management Action:

By June 30, 2009, the Division of Purchases will develop written procurement policies to establish and make clear the standard limits that apply to contract renewals and amendments, to clarify when re-bidding or additional review is required by either the Division of Purchases or the State Purchases Review Committee, and to explain how exceptions to these standards, if any, are handled.

Finding 3 – Cooperative Agreements May Pose Financial Risk

As discussed in the background section of this report, the State of Maine enters into contracts known as Cooperative Agreements with the University of Maine or Maine Community College System. These agreements are statutorily exempt from the competitive bidding.

OPEGA reviewed six Cooperative Agreements as part of our sample. Five of those contracts were between DHHS and the University of Maine System (UMS), the other was between the Atlantic Salmon Commission and UMS. The cost of these contracts at the time of our review was \$4.1 million, of which \$360,000 was funded from the General Fund. The type of activities included in these Agreements included:

- support services for MaineCare;
- continuance of the CHOICES Comprehensive Employment Opportunity program;
- coordination of projects and training in Behavioral Health areas;
- support and other information services for MaineCare policy information;
- support services for the Physical Activity and Nutrition Program; and
- water chemistry research on Maine rivers and streams.

Most of the State's Cooperative Agreements involve DHHS. In fiscal year 2007 the agency had 56 active Agreements with UMS. These Agreements had expenditures of \$22.8 million; \$4.9 million of which was from the General Fund, and \$4.2 million from Special and Other Revenue Funds.

OPEGA identified a number of areas of possible concern with Cooperative Agreements related to the ability to oversee and monitor budgets and costs related to those Agreements. DHHS has made changes recently to improve the Cooperative Agreement process, but additional improvements may be possible.

Recommendation for Legislative Action:

A comprehensive evaluation of Cooperative Agreements was beyond the scope of this review, but we do recommend such an evaluation be performed. We offer the following options for the Legislature's consideration:

- a. assign OPEGA to conduct a review;
- b. direct the State Auditor or State Controller to conduct a review; or
- c. assign responsibility for a review to a legislative policy or special study committee.

Finding 4 – Apparent Inconsistencies in Executive Order

Executive Order No. 7, FY 94/95 is the policy document on which some of the Division of Purchases' current purchasing procedures are based. OPEGA observed inconsistencies between the Executive Order, statute and current procurement practices in a couple of areas.

Statute (5 MRSA §1825-B.2.G) provides waivers from competitive bidding under certain conditions. Executive Order No. 7, FY94/95 also describes conditions under which the State Purchases Review Committee may approve a sole source procurement. Both statute and the Executive Order allow sole sourcing when procuring from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need. However, statute states that this condition is only allowable when the expected expenditures are \$10,000 or less while the Executive Order includes no dollar limit.

The Executive Order also states that the SPRC shall act upon all State agency requests for contracts costing over \$100,000. Currently, the SPRC automatically reviews contracts costing over \$1 million, and has delegated its authority for the review of contracts costing between \$100,000 and \$1 million to the Director of the Division of Purchases. The Director has the discretion to refer any contract between \$100,000 and \$1 million back to the SPRC if deemed necessary. This delegation of authority has not been formally documented.

OPEGA believes the current procurement practices provide for adequate control over contracts for professional services. However, the apparent inconsistency between what is described in the Executive Order, what exists in statute and what is actually occurring in practice, limits transparency and may be confusing to those outside the Division of Purchases seeking to understand the procurement process. We recommend that these differences be resolved. The Administration should seek Legislative agreement on the current procurement practices through the Appropriations and Financial Affairs Committee. Appropriate changes to statute and/or other policy directives should then be pursued as appropriate.

Management Action:

The Division of Purchases will pursue resolution of the apparent inconsistencies between Division polices and procedures, Executive Order No. 7, FY 94/95 and statute, and will, through the Commissioner of the Department of Administrative and Financial Services, involve the Appropriations and Financial Affairs Committee as appropriate. These inconsistencies will be resolved by June 30, 2009.

Agency Response

In accordance with 3 MRSA §996, OPEGA provided the Division of Purchases an opportunity to submit comments on the draft of this report. The response letter can be found at the end of this report.

Acknowledgements

OPEGA would like to thank the management and staff of the Department of Administrative and Financial Services and in particular the Division of Purchases in the Bureau of General Services who worked with us throughout this audit. Their cooperation and willingness to share their time and knowledge was appreciated.



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF GENERAL SERVICES
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04333-0077

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JOHN ELIAS BALDACCI
GOVERNOR

RYAN LOW
COMMISSIONER

M.F. CHIP GAVIN
DIRECTOR

September 2, 2008

Beth Ashcroft, Director
Office of Program Evaluation and Government Accountability
Maine State Legislature
82 State House Station
Augusta, ME 04333-0082

Dear Director Ashcroft,

Thank you for the copy of the final draft of OPEGA's report on State Contracting for Professional Services: Procurement Process, and for the invitation to submit these written comments.

We have reviewed the proposed management actions, and want to take this opportunity to confirm that we intend to pursue those actions as proposed.

Thank you again. We have enjoyed working with you.

Regards,


Chip Gavin, Director
Bureau of General Services

cc: Betty Lamoreau, Director, Division of Purchases



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
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SERVING THE PUBLIC AND DELIVERING ESSENTIAL SERVICES TO STATE GOVERNMENT

JANET T. MILLS
GOVERNOR

KIRSTEN LC FIGUEROA
COMMISSIONER

August 19, 2024

Senator Craig Hickman
Representative Jessica Fay
Government Oversight Committee
c/o Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333-0082

Dear Senator Hickman, Representative Fay, and members of the Government Oversight Committee,

The Department of Administrative and Financial Services is providing OPEGA and the Government Oversight Committee the following additional information regarding the 2008 OPEGA report, “**State Contracting for Professional Services: Procurement Process** – Practices Generally Adequate to Minimize Cost-related Risks” (No. SR-SAS-07), findings and recommendations.

2008 OPEGA Report Finding 1 – Documented justification for sole source contracts was often minimal.

OPEGA Recommendation: Agencies seeking sole source contracts should be required to submit to the Division of Purchases written justifications that more fully explain how their situations meet the criteria for sole source procurement, particularly when the proposed contracts are above the statutory open market limit of \$10,000.

The Office of State Procurement Services’ Notice of Intent to Waive Competitive Bidding (NOI) has evolved into a robust process. Using the Procurement Justification Form (PJF) an issuing Agency articulates its rationale and statutory basis for pursuing a single source contract. In the time since OPEGA’s 2008 review, the PJF has been expanded to three pages from what was once a one-page coversheet.

Statutorily there are seven (7) limited circumstances under which the requirement of competitive bidding may be waived by the Director of the Bureau of General Services. They are found under [5 MRS §1825-B\(2\)](#) and are:

A. The procurement of goods or services by the State for county commissioners pursuant to [Title 30-A, section 124](#), involves the expenditure of \$2,500 or less, and the interests of the State would best be served;

B. The Director of the Bureau of General Services is authorized by the Governor or the Governor's designee to make purchases without competitive bidding because in the opinion of the Governor or the Governor's designee an emergency exists that requires the immediate procurement of goods or services;

C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;

D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;

E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving:

(1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs;

F. The procurement of goods or services involves expenditures of \$25,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids; or

G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.

The PJF is first reviewed by Procurement staff for completeness and compliance with mandatory criteria; PJFs found insufficient by Procurement staff are sent back to the issuing Agency for additional information, until considered satisfactory.

For contracts \$1 million or greater, single source justifications require the additional review and approval by the State Purchases Review Committee (SPRC). The SPRC is comprised of a member of the Governor's staff, the Director of Procurement, the State Budget Officer, the State Controller, the Attorney General, and if IT related, the Chief Information Officer. To pass SPRC review, the members must approve unanimously.

Next, [Notices of Intent to Waive Competitive Bidding \(NOI\), which include the related PJF, are posted on Procurement's website](#) for the purpose of providing the vendor community and interested members of the public the opportunity to review the issuing Agency's single source rationale and statutory basis for that action. This is one of the most highly trafficked websites in State Government. Vendors and interested parties that wish to protest the use of a non-competitive bid process may file a challenge. Challenges are reviewed by Procurement and sent to the issuing Agency for a formal response.

Procurement then decides whether the Agency's original single source justification remains valid and can proceed or doesn't hold up and necessitates a competitive bid process.

As a recent example, a single source proposal was submitted by Bureau of Parks and Lands (BPL) to engage a company in Washington State to build aluminum boats of a certain design and purpose. As part of the PJF process, Procurement requested more information to support the Agency's justification. BPL provided documentation and patents to bolster their rationale for a single source. The NOI/PJF was posted. Two protests were received, including one by a Maine boat-builder, asserting they could offer solutions that would be able to competitively meet BPL's objectives. Upon reviewing these previously unknown solutions, BPL withdrew their single source proposal and proceeded with a competitive RFP process.

2008 OPEGA Report Finding 2 - Lack of policies limiting contract renewals and amendments.

OPEGA Recommendation: Formal policies should be developed regarding contract renewals and amendments that set standard limits defining when rebidding rather than renewing or amending is required. Requests for renewals exceeding these limits should be subject to more rigorous justification and review.

The Office of State Procurement Services' 2015 Policy Manual addresses the 2008 OPEGA report concerns. The 2015 Policy Manual limits renewals to no more than four years and sets forth specific criteria under which a contract amendment may be issued. The current standard, maximum contract term is five years. For contracts \$1 million or greater, unless specifically requested and subsequently approved by the SPRC, contract terms described in the RFP for more than five years are generally not permitted. It should be noted that some IT contracts, specifically complex software solutions, may extend longer due to operational and implementation necessity.

Procurement's Policy Manual is currently undergoing a periodic 10-year review and draft of an updated comprehensive Policy Manual is in the process of being edited for final release by the end of fiscal year 2025. This updated manual will include changes in terminology, processes, document references, and current practices as modernization efforts have further improved accountability, transparency, and efficiency.

2008 OPEGA Report Finding 3 – Cooperative Agreements may pose financial risk

OPEGA Recommendation: Because it was outside the scope of review, OPEGA recommended that a more in-depth evaluation be conducted by OPEGA, the State Auditor or State Controller, or a legislative policy or special study committee.

As outlined in [5 MRS §1825-B\(2\)](#) Cooperative Agreements are statutorily exempt from competitive bidding. Since the 2008 OPEGA Report, Cooperative Agreements have significantly reduced in count and aggregate value, significantly reducing the financial risk of incurring excessive costs. In 2007, prior to OPEGA's review, there were 56 Cooperative Agreements totaling \$22.8 million. In 2023, that count had been reduced by almost 75 percent and the value reduced by more than 80 percent.

[5 MRS §1825-B\(3\)](#) requires the Director of the Bureau of General Services to submit a report concerning any waivers from the competitive bidding provisions established in [subsection 2, paragraph E](#) (Cooperative Agreements) to the joint standing committee of the Legislature having jurisdiction over state and local government. Below is the table from the report covering 2023:

Department	Current Legal Name	Added/Adjusted CY23	End Date
DECD	UNIVERSITY OF MAINE SYSTEM	\$33,000	6/30/2025
DECD	UNIVERSITY OF MAINE SYSTEM	\$200,000	6/30/2023
DECD	UNIVERSITY OF MAINE SYSTEM	\$300,000	6/30/2024
DECD	UNIVERSITY OF MAINE SYSTEM	\$683,684	5/25/2023
DOE	UNIVERSITY OF MAINE SYSTEM	\$71,066	6/30/2024
DOE	UNIVERSITY OF MAINE SYSTEM	\$8,410	6/30/2024
DEP	UNIVERSITY OF MAINE SYSTEM	\$537,000	6/30/2023
DHHS	UNIVERSITY OF SOUTHERN MAINE	\$104,326	5/31/2024
DHHS	UNIVERSITY OF SOUTHERN MAINE	\$39,824	3/31/2024
DHHS	UNIVERSITY OF SOUTHERN MAINE	\$160,795	7/1/2028
DHHS	UNIVERSITY OF MAINE SYSTEM	\$202,017	12/31/2024
DMR	UNIVERSITY OF MAINE SYSTEM	\$15,000	6/30/2024
DMR	UNIVERSITY OF MAINE SYSTEM	\$42,248	12/31/2026
DMR	UNIVERSITY OF MAINE SYSTEM	\$114,885	6/30/2024
DMR	UNIVERSITY OF MAINE SYSTEM	\$1,500,000	6/30/2023
	Total	\$4,012,255	
	Median	\$137,840	

2008 OPEGA Report Finding 4 – Apparent inconsistencies in Executive Order

OPEGA Recommendation: Apparent inconsistencies between Executive Order No. 7, FY 94/95 (the policy document on which some of the Division of Purchases’ purchasing procedures were based), statute, and procurement practices regarding acceptable waivers from competitive bidding and the role of the State Purchases Review Committee should be resolved.

In PL 2021, the State Procurement Review Committee was established in statute ([5 MRS §1824-B](#)), rather than by Executive Order.

The Office of State Procurement Services’ existing policies follow current statute as well as applicable Bureau of General Services’ rules, chapters 110 and 120.

Respectfully,



Kirsten LC Figueroa
Commissioner

cc: Peter Schleck, Director, Office of Program Evaluation and Government Accountability
Sabrina Carey, Clerk, Government Oversight Committee
Anya Trundy, Chief of Legislative & Strategic Operations, DAFS