



SEN. NATHAN LIBBY, SENATE CHAIR
REP. GENEVIEVE MCDONALD, HOUSE CHAIR

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SEN. DONNA BAILEY
SEN. RICHARD BENNETT
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REP. KATHLEEN R.J. DILLINGHAM
REP. AMY ARATA
REP. H. SAWIN MILLETT, JR.
REP. MARGARET O'NEIL
REP. HOLLY STOVER

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
June 25, 2021
Accepted August 11, 2021

Call to Order

The Chair, Sen. Libby, called the electronically conducted Government Oversight Committee to order at 9:06 a.m.

Attendance

Senators:

Sen. Libby, Sen. Bailey and Sen. Bennett

Absent: Sen. Deschambault, Sen. Keim and Sen. Timberlake

Representatives:

Rep. McDonald, Rep. Dillingham, Rep. Arata, Rep. Millett and
Rep. O'Neil

Joining the meeting in progress: Rep. Stover

Legislative Officers and Staff:

Lucia Nixon, Director, OPEGA

Matthew Kruk, Principal Analyst, OPEGA

Scott Farwell, Senior Analyst, OPEGA

Amy Gagne, Senior Analyst, OPEGA

Etta Connors, Adm. Secretary, OPEGA/Clerk, GOC

Executive Branch Officers
and Staff Providing

Information to the Committee:

Shenna Bellows, Secretary of State

Julie Flynn, Deputy Secretary of State

Jonathan Wayne, Executive Director, Maine Ethics Commission

Elaine Clark, Deputy Commissioner, Department of Administration and
Financial Services

Jaime Schorr, Chief Procurement Officer, Department of Administration
and Financial Services

Lauren Stuart, Director, Bureau of Highway Safety, Department of Public
Safety

Kendra Coates, Assistant to Commissioner, Department of Public Safety

82 State House Station, Room 104 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

Introduction of Committee Members

The members of the Government Oversight Committee introduced themselves.

Summary of June 4, 2021 GOC Meeting

The Summary of June 4, 2021 was accepted as written.

New Business

• Presentation of OPEGA Report on Maine's Citizen Initiative and People's Veto Process

Director Nixon presented OPEGA's Report on Maine's Citizen Initiative and People's Veto Process (The report can be found at: <http://legislature.maine.gov/opega/opega-reports/9149>.)

Sen. Bailey referred to the trends and noticed that OPEGA did not differentiate between initiatives that are required by statute to go to referendum and those that are clearly just citizen initiatives. For example, gambling, which is required by statute since 2011 to go out to referendum. She asked if that was a conscious decision not to differentiate, and other than gambling, is OPEGA aware of other statutes that require a certain subject matter to go out to referendum. She asked, of the 12 gambling petitions, how many have been since 2011, when it was required by statute to go out by referendum.

Director Nixon asked if Mr. Kruk could answer Sen. Bailey's question, adding that Sen. Bailey was correct, the report does not delineate between those required by statute.

Mr. Kruk said it was not a conscious decision by OPEGA not to delineate between petitions required by statute to go to referendum or not, but it is information he can get for the GOC. He restated Sen. Bailey's question of how many of those were there in the subset. Sen. Bailey said that was correct because she thinks OPEGA was looking at trends and for her, there is a difference between initiatives that were put out to referendum because they are required by statute and those that are not required by statute. It was curious to her from what Director Nixon said about this review being initiated by the York County Casino referendum and was an initiative that was required by statute and is something that the Legislature enacted. Sen. Bailey was curious of the inter-play between statutes being passed requiring things to go out to referendum and the potential impact on trends and characteristics of referendums. Mr. Kruk said he will get that information to the Committee.

Sen. Bennett asked why OPEGA did not add 2020 into their report because, as is known, there was spending on a referendum that was removed from the ballot that exceeded the high spending number in OPEGA's chart in the report. Director Nixon said she did not have a specifically good reason other than the project was framed to look at the years 1999-2018 in the report. She noted she would be talking about recent developments, both legislatively and at the ballot, including CMP related initiatives, toward the end of her presentation. Sen. Bennett said he would defer until that time.

Sen. Bennett said he missed the 2011 events that Sen. Bailey referred to with respect to requiring referendums related to gambling measures to go to the public. At some point he would like to learn more about that. Director Nixon said OPEGA will follow-up with Sen. Bennett regarding that matter.

Rep. Dillingham wanted to verify that Director Nixon said that the Secretary of State's Office does not have any sort of system set up to verify between different submissions of different rounds of signature collections to make sure the same people are not signing in both signature gatherings. Director Nixon said that was correct.

Sen. Libby referred to Table 2 on page 7 of the report noting that the first step in the certification process is checking for duplicative signatures and said, related to Rep. Dillingham's question, we are talking about two different scenarios. Most citizen initiatives go through one signature certification process, but in the case of the York County Casino, it is his understanding that was a unique case where they failed to gather signatures the first time so went out for a second round of signatures. He said OPEGA has identified that there is no process to check for duplicate signatures between those two batches of signatures and asked if he stated that correctly. Director Nixon said he did. Sen. Libby said there is a duplicate signature review process for most, but in the instance of two batches of signatures, there is not. Director Nixon said that was correct.

Director Nixon said the report is looking at the process and the trends and OPEGA did a deep dive into the process, giving the Legislature an understanding of the issues within the process. OPEGA did want to note that 3 laws were enacted during the 129th Legislature - PL 2019, c. 456 – An Act to Collect Data Regarding How Payment is Made for Collection of Signatures for Direct Initiatives and People's Veto Referendums; PL 2019, c. 414 – An Act to make Ballot Questions Easier to Read and Understanding for Maine Voters; and PL 2019, c. 152 – An Act to Require Legislative Hearings on Citizen-initiated Legislation. More directly related to Sen. Bennett's question regarding 2020, OPEGA did note that there was one question that had been on the ballot. OPEGA's sample was defined as applications filed by a certain date and one application came in after that date - the People's Veto to Reject the Exemptions Regarding Immunizations, regarding the law that removed the exemption on childhood immunizations for students to attend schools. It was a people's veto referendum election in March of 2020 and that has been the one that made it to the ballot since the time period covered by OPEGA's study. As Sen. Bennett noted there was also significant activity in the prior year regarding expenditures on a campaign that then did not end up going to the ballot as it was ruled that was not proper to go to the ballot – this related to Central Maine Power.

Director Nixon thanked the management and staff at the Secretary of State's Office and the Maine Commission on Governmental Ethics and Election Practices for their cooperation with OPEGA throughout the review. She also thanked the Office of the Attorney General, Office of the Revisor of States, Office of Fiscal and Program Review, Office of Policy and Legal Analysis, the municipal registrars, notaries public and other participants in the cooperation and assistance.

Sen. Libby noted that folks from the Secretary of State's (SOS) Office and Office of Governmental Ethics and Election Practices were at the meeting and available to answer Committee members' questions. He reminded everyone that the GOC will be having a public comment period on the report at the August 11th GOC meeting.

Rep. Arata said she was surprised the issue of so many invalidated signatures did not come up. She said that in 2016 there were an alarming number of signatures that were invalid and perhaps the recommendation would be to have more clear instructions for the petition collection, petitioners and signees.

Secretary Bellows deferred to Deputy Secretary Flynn for many of the technical questions the GOC may have, but said from a big picture perspective one of the things that she learned this year is that those in the Secretary of State's Office overseeing elections do not have an investigations division so when people have concerns about potential petition fraud, or things of that sort, they can refer that to the Attorney General's (AG) Office for investigation, but the SOS's Office themselves do not have the personnel that are specifically trained to do that type of investigation, nor do they have enforcement authority. When they see a petition that has so many signatures that are not valid, even if there are concerns of fraud, they do not have statutory authority or personnel to investigate. The second thing she said, in terms of additional public education, or work that could be done to help petitioners understand their responsibilities, is that she thinks the SOS's staff does an amazing job within existing resources. There is currently a team of 8 people and last year alone the Election's Division's overtime was 2,933 hours. They are working as hard as they can and their level of integrity and performance with that small team is truly incredible.

Ms. Flynn noted that she has been in the SOS's Office for 26 years so has done probably a hundred or more petition certifications. The biggest category for invalid signatures is people who are not registered to vote. Despite the clarity of instructions and they have a separate set of instructions specifically for circulators, when you ask a voter to sign, they say they are a registered voter in the town in which they are signing and they are not. That is not something that is fraudulent, it is just that some people do not know how to say no and they don't want to say they are not registered to vote. That is just the way it is. The SOS's Office does not count signatures of people who are not registered to vote. For the duplicative signature issue, you can train them to ask somebody if they had signed this petition before, but sometimes there are a lot of initiatives circulating at the same time and they may not remember that is the one they signed a couple of months ago or 6 months ago so when signing a second time they are not intentionally doing something fraudulent and it is not anything the circulator would know. Ms. Flynn does think there are some instances, and the SOS's Office has provided those to the AG's Office for prosecution, of a couple of individuals in the past for knowingly falsifying signatures. That is clearly fraud with somebody signing someone else's name or watching someone sign someone else's name to a petition.

Rep. Arata asked if it is acceptable for somebody to fill out another person's information on all of the lines on the petition except for the signature. Ms. Flynn said that is acceptable, and in a few months' time, as a result of legislation, only a person with a disability who is unable to sign, will be able to have a person sign their name for them at their direction. That is part of the Constitutional amendment that was passed in 2019 by the Legislature to implement through legislation in the past session. That would be the only instance when somebody can sign for somebody else.

The Committee thanked Secretary Bellows, Ms. Flynn and Mr. Wayne for being at the meeting and answering their questions.

Unfinished Business

- **Request for OPEGA review of the RFP Process Administered by the Department of Public Safety, Bureau of Highway Safety and associated Department of Administration and Financial Services procurement policies**

Director Nixon said this review request was presented to the GOC on May 14, 2021 by Rep. Bell. The Committee had initial discussion about needing more information to make an informed decision about whether to add the review request to OPEGA's Work Plan. She noted that there are staff from the Department of Public Safety (DPS), Bureau of Highway Safety (BHS), Department of Administration and Financial Services (DAFS), Rep. Bell, the sponsor of the review request and his constituent, Mr. Woods, at today's meeting.

Director Nixon said the GOC had asked specific questions related to contracting and the DAFS's Commissioner did respond in writing to those questions. She said Commissioner Figueroa was unavailable for this meeting, but Elaine Clark, Deputy Commissioner of DAFS is available to answer questions.

Director Nixon said the Committee is deciding whether they will ask OPEGA to do a review of the RFP process. Today the Committee will be deciding if the topic is a high enough priority to warrant adding it to OPEGA's Stand-by List or current Work Plan. For today's preparation OPEGA did go back through all of the requests received and noted that they have not had other requests related to this topic.

Sen. Libby said at this point the Committee will invite representatives to either make a brief presentation, or respond to the questions posed by the GOC.

Ms. Clark addressed 3 points because they may not have been included in the materials provided by the DAFS Commissioner that will give the Committee a sense of the Office of Procurement Services (OPS). OPS

manages the purchase procurement and acquisition of all contractual services, materials and equipment for the State of Maine government through an open and transparent competition. Their job is to facilitate the economic use of public funds towards the acquisition of the highest quality goods and services at the lowest possible costs. They lend purchasing expertise to individual State agencies, with the agencies being the true arbiter of the goods and services that they need. To use a highway safety analogy, procurement maintains the roads and the individual State agencies are the drivers. In terms of inter-agency cooperation, OPS facilitate transactions for agencies in State government and prides itself on its strong collaboration and relationship to those agencies. They work closely with all State agencies, including bureaus within DAFS and DOT, on issues ranging from very complex to very straight forward. Ms. Clark said she would defer to Ms. Schorr for specifics about the procurement process, but expressed that Ms. Schorr provides directional leadership and strategic management for OPS. She said the process in this case worked. It did discern an error in this RFP which the Appeals Panel found.

Sen. Libby asked that the folks from DAFS keep their remarks to the subject being reviewed by the GOC, which is the specific RFP that was invalidated and to the questions posed by the Committee.

Ms. Schorr summarized the letter received from Commissioner Figueroa. (A copy of the response letter is attached to the Meeting Summary.)

Sen. Libby asked Ms. Schorr to describe how the evaluators develop their scores. Is it done independently and then they convene to discuss or is it some other process.

Ms. Schorr said the evaluators conduct a two part process. The individual evaluation notes, which is phase one, is where the individual evaluator reviews the proposal to prepare for consensus scoring. During the individual evaluation process, evaluators do not score or assign any points. That portion of the process is just for them to familiarize themselves with the proposals that were submitted to prepare for the consensus scoring. They jot down notes around things that they liked or didn't like in the proposal, things they found interesting or questioned. The second phase is the consensus scoring whereby the team gets together and reviews each proposal one at a time, one section at a time, comparing the proposal to the requirement set forth in the RFP. For example, the 3 person evaluation team would review proposal "A", the qualifications and experience and they would talk about it, take notes and then would throw out a point value up to 35 points, in this case, and would continue on section-by-section and proposal-by-proposal until complete.

Sen. Libby said in the case of the Alliance Sports Marketing and TideSmart Global reviews, were the 3 individuals free to make their own decisions or was the supervisor also in the room.

Ms. Schorr said all 3 evaluators are completely independent from their supervisors and/or any other process. She said she would defer to DPS to note the hierarchy because she is not familiar with it.

Kendra Coates said DPS is happy to answer any questions the GOC may have and referred to Ms. Stewart to answer the hierarchy question.

Ms. Stewart said 2 of the evaluators are contract grant specialists. Ann Wood is a new contract grant specialist and her supervisor is Jaime Pelotte. The other evaluator is Nicolas Brown and he reports directly to her.

Sen. Libby noted the RFP was published in July 2020 and that Ms. Schorr read into the GOC's record # 5 on page 8 of the Commissioner's letter the comments regarding the incumbent provider contacting DPS informing them of some certification that they secured – Road Safety Professional (RSP). He asked if RSP certification was part of the RFP that occurred well before 2020. Ms. Schorr said this service had previously gone out to RFP in 2015 and she is not aware of including an RSP certification in prior iterations. She would defer to DPS to expand on that answer.

Sen. Libby asked Ms. Stewart what generated, or necessitated, having the certification be part of the 2020 RFP. Ms. Stewart agreed the prior RFP did not include any RSP certification information. That was a new certification that she had learned about through the Governor's Highway Association of which she is the Executive Secretary. Its intent and purpose are to ensure that highway safety officials, and those who are working for highway safety offices, are extremely skilled in traffic safety because lots of times the vendors that are supplying the services for DPS are working on behalf of the State because they do not have the staff to attend the events and deal with the public regarding the services they are requesting in the RFP. In this particular instance, the RSP certification was included in the RFP not originally as an eligibility requirement, but as a preference, something DPS thought would add assurance that they were working with professionals who understood the traffic safety world. She said ultimately, through some misunderstood guidance that DPS received from OPS, that was moved into an eligibility space in the RFP and was not discovered by DPS until the question and answer (Q & A) period. So, when her staff asked her to review the Q & A as part of the normal RFP process, it was discovered that was in there as an eligibility requirement. DPS attempted to correct that in the Q & A portion of the RFP to let all bidders know that that was not an eligibility requirement. Ms. Stewart thinks what DPS should have done was to amend the RFP, but they didn't. They thought they could fix it in the Q & A, but that did not work for them in the appeal process. They now know the different way to do that.

Sen. Libby asked if the incumbent provider is continuing to provide the service to DPS today. Ms. Stewart said no. Those services ended on September 30, 2020. Sen. Libby asked what the Department has planned for procuring the services going forward. Ms. Stewart said DPS has not planned to procure those services going forward and has discretion of whether or not to procure sports marketing services as part of highway safety.

Sen. Bennett referred to the Commissioner's letter regarding the appeal of the RFP and the 5 points. Four of them start by talking about the petitioner and the 5th one talks about the appellant and asked if there is a reason for that. He believes they are the same party and was curious about the change in terminology and what significance that might have.

Ms. Schorr said it is most likely an error in a word choice on behalf of DAFS, but noted that for procurement, a petitioner is someone who has requested an appeal hearing. Once the hearing is granted, that entity is then referred to as an appellant. It is simply a word choice for DAFS, it is the same party.

Sen. Bennett asked what the rationale was for apparently abandoning the RFP after this appeal. Did DPS determine that services are not needed or was there some other reason?

Ms. Stewart said DPS's Highway Safety Plan runs on a federal fiscal year so their intent in submitting the RFP back in July was to have a vendor on board for October 1st and to conduct those services through September 30th of the following year. When the appeal happened, it was not finalized until December, which is several months already into the federal fiscal year. It takes a long time to create an RFP and would have taken DPS several months into the spring, which would have put them 5 or 6 months into the federal fiscal year before awarding a contract so elected not do that. The second reason is because at that time schools were still not allowing people inside for events, to have speakers or gathering groups of students together for traffic safety events and sports venues were still not having in person sporting events, etc. It did not make sense for DPS to spend the time issuing another RFP for those services.

Sen. Bennett referred to part of the sentence in the Commissioner's letter - "included public service announcements, signage, information displays, and personal interaction with the public using local law enforcement and MeBHS staff during events." He wondered why it was the conclusion that an RSP certification was relevant here at all given that it was not the vendor that would be doing personal interactions, but rather the local law enforcement and BHS staff.

Ms. Stewart said it is the vendor that would be doing the in person events at all of the sporting venues, community fairs, festivals, etc. It is the vendor who is expected to do that. Occasionally, the BHS staff will attend and occasionally law enforcement will participate as well. She wanted to reiterate that the intention was never to have that RSP certification as an eligibility requirement. It got moved to that spot through a misunderstanding by one of the contracts grant specialists from some information that was provided from DPS and the individual did not understand the significance of it.

Ms. Schorr wanted to comment briefly on the timeline. Should BHS still need the services as originally outlined, a competitive bid would have to be initiated and they would follow the standard RFP process she outlined previously. Obviously, they do not have an RFP draft that they are currently reviewing. Should BHS submit a draft to them, her team would be happy to help facilitate the process and conceivably an RFP could take place in July and August for execution as early as this fall.

Sen. Libby asked the GOC if there was any objection to allowing Mr. Woods, the appellant in the request for review of the RFP process, to be able to address the Committee. He said typically the GOC may invite a legislative sponsor to make comments to the Committee on behalf of a party such as Mr. Woods, but the legislative sponsor is no longer at the meeting. Given the circumstance, he was open to having Mr. Woods make a brief comment, or to address points that have been raised. He said the GOC is not looking for an extensive presentation, but if there is no objection from the Committee, he was open to giving Mr. Woods the opportunity to address the GOC. Hearing no objections from the members of the Committee, Sen. Libby asked Mr. Woods to proceed.

Mr. Woods asked Director Nixon if the documents he forwarded to her earlier in an email had been provided to the GOC members. Director Nixon said Mr. Woods's information had been provided to the Committee.

Mr. Woods, CEO and owner of TideSmart Global (TideSmart), doing business in Maine since 2003 and is based in Falmouth, Maine. He said a lot of details have been discussed during the meeting so wanted to add a little context. TideSmart is an event marketing company, specializing in driver programs, as well as, other programs and has been doing so for 20 years. They have extensive experience in Maine and met the requirements that should have been part of the RFP.

Mr. Woods said, also of note, is that they were and are, reluctant to challenge and appeal this RFP process. In 18 years TideSmart has never pursued, or been a defendant, to any kind of litigation or challenge. They have been part of hundreds of RFPs and he has never been involved with one similar in any way to this RFP. This RFP was unique and he believes egregious, leaving TideSmart no choice but to pursue a review. Not just for his business interest, but more importantly for the State of Maine and the taxpayers. It is his understanding that much of the funding over the last 10 years for this program has been through federal DOT through the State. But, whether it is federal or state funds, he believes all tax payers should have a right to make sure those funds are spent responsibly.

Mr. Woods noted that TideSmart has a longstanding positive business relationship with the State. They have contracted with the Maine CDC and DHHS for multiple programs over the last year. He continued to name other contracts they have with the State. He said he has dedicated his career trying to help civic and government organizations, so asked that the Committee accept that spirit attached to his request for review of the RFP process.

Mr. Woods said DPS had approximately a 10 year contractual relationship with a third-party. A third-party based in Nashville, Tennessee. The State no longer has a favored State clause as part of procurement that it had in years past, which has some relevancy. He characterized the State's relationship with Alliance Sports Marketing (Alliance) as very close, and said this was personified by Ms. Stewart being in an advertisement on

Alliance's website. There were two panel quotes on the website directly attributed to Ms. Stewart that apparently were on their website for months, if not years, saying what a great business partner Alliance was.

In July 2020 the DPS issued RFP 202006107 and he believes it was intentionally designed, constructed and scored with one purpose and that was to continue the 10 year relationship with Alliance. It was a one year contract with 4 year renewals. Significant funding. In the past he thinks it was \$4 to 6 million in aggregate and this contract could have represented approximately \$4 million. Although the Appeal Panel limited their decision to 2 of the elements he brought up, he believes that does not negate the validity, or the substance, of all of the arguments. The fundamentally unfair approach. We talked about the RSP credential noting there was not one human being in all of Maine that had the RSP credential. That is important. The other eligibility requirement is you had to have an existing business relationship with the Maine Principal's Association (MPA). Under sworn testimony, the Executive Director of the MPA testified that there was only 1 company that currently had a contractual relationship with them and that was Alliance. Also, what showed up during the RFP process is the State themselves, the RFP coordinator, submitted a form that was in the documentation stating that she did a google search that resulted in 3 possible candidates for the RFP. One is a digital company that had nothing to do with this type of work, one is a company in London England that had nothing to do with this kind of work and Alliance.

Mr. Woods said another point is that TideSmart only found out about the RFP randomly. Nobody contacted them, so if they hadn't stumbled upon the RFP, it would have reflected a no bid situation for a \$4 or 5 million to the incumbent. He said this is not an indictment on the procurement process, but he understands there was such precise technical requirements you had to put an ad only in the Kennebec Journal. The State paid \$327 to place a tiny ad in the KJ for such a critical life saving program. They did not pursue due diligence, it was not done according to the Director's comment of being open and transparent. It was done intentionally for this RFP to go to Alliance. The State is under a higher obligation regarding procurement laws and regulation and it is not up to the program manager to skew the program in this way.

Mr. Woods said the problem is also that in the State statute, relative to the appeal, once it was determined the award of the RFP was fundamentally unfair, there is no remedy. There was "no sorry Steve you spent \$10,000 participating in this and hundreds of hours." There is no remedy. He believes his company, on the merits, is the best candidate. The other element in the RFP that got glossed over a bit is that there was no cost guidance in the RFP. The fact that TideSmart was scored negatively because their cost was a little higher than Alliance was a little bit absurd.

Mr. Woods said the ultimate issue in this scenario, with this type of RFP, is whether it was biased in awarding a contract and currently the only mechanism is a do over. So, BHS can say they are going to issue a new RFP. Are they going to have the same people scoring it, or different people? It is a subjective masked scoring system so there is no telling in the combined scoring who scored what?

Mr. Woods knows that Covid-19 was not in the RFP, but anyone in the universe issuing an RFP in the middle of a pandemic involving thousands of interactions with people to not even talk about Covid-19, was such a glaring omission for both what was in the RFP and what was omitted in the RFP and pointed clearly and convincingly that the State wanted to award the contract to this one vendor. It is not that just the award was flawed, the process from the beginning excluded thousands of potential bidders that could have provided services to the State.

Mr. Woods said what he would like OPEGA and the GOC to look into is the difference between the letter of the procurement law and its application. He thinks OPS does a very good job, but there is a human element. There is a behavioral element and if somebody wants to game the system and show favoritism to a favored vendor, that can happen. But, in this case, it was so egregious and not just in the points decided by the appeal. He said to Ms. Schorr's point, if this represents 4 hundredth of 1 percent, statistically how many other things like this

have not happened because there has not been an appellant or petitioner. Without getting into the merits of who was a better choice of vendors, the procurement process, law and regulations in the State should protect against these types of things. If a State employee is found to have such bias and such clear disregard for the intent of the procurement process, there should be some mechanism for remedy. Mr. Woods thinks TideSmart is a great partner, but in reality, if they participate again and Ms. Stewart is involved, what are the changes, after going through what has to be an uncomfortable process, that subjectively TideSmart will be scored as the winning participant. He is asking OPEGA and the GOC to look at this as a case study, not as a percentage basis, because he does not think it is widespread, but to come up with some new regulations. In this particular case, he would love something, a note from Ms. Stewart saying he will be considered or he would like the Commissioner to say it was a mistake, it was human error, but we respect your company, we respect your 100 employees, your investment in the State, and you will be considered equally as a future participant.

Ms. Coates asked for an opportunity to speak and if it would be appropriate to make a response on behalf of the Department. Sen. Libby said he thinks the GOC is interested in clarifying information only. He does not think the Committee is interested in a back-and-forth between the parties who are on opposite sides of the issue. If Ms. Coates has clarifying information for the Committee, she is welcome to proceed.

Ms. Coates said DPS does look to have an open and transparent process, and look to follow the procurement process and thinks Ms. Stewart explained what happened in this case.

Ms. Clark wanted to clarify two points. One is that Mr. Woods stated that there was no cost guidance and that threw his response off on the cost. She said that is the very basis by which the award of the RFP was invalidated, so from their perspective, the process worked. Sen. Libby asked for clarification of Ms. Clark's statement. Ms. Clark said Mr. Woods stated that there was insufficient cost guidance and it caused him to have troubles responding to the cost component of the RFP. The major basis for the invalidation of the award was the confusion over the costs, the way the cost was formulated or requested in the RFP. That is why it is the Department's position that the RFP process and the appeal process actually worked because it identified that cost had been an issue in this RFP and thus, the award was invalidated. The second clarification is on the fact that Mr. Woods is looking for some compensation for his time. She said there are 4 answers to that. First, responding to an RFP is a voluntary risk and the RFP so states. It states that costs are not recoverable. Second, DAFS has no authority to do anything other than have an appeals panel look at this award and either validate or invalidate it. Third, DAFS does not have an appropriation for the purpose of compensating appellants, even if they prevail. Fourth, they think that is for good reason because if costs were recoverable, it could lead to encouragement of frivolous and non-meritorious appeals. She is not saying that would happen, but it could be an unintended consequence.

Sen. Libby said the GOC has been given a lot of information to process. They appreciated the remarks from Mr. Woods, DAFS and DPS, but at this point he wanted to see if the Committee had suggestions on whether they were going to proceed today with an action or carry the request for a review to their next meeting.

Sen. Bennett said it is a lot of information to review and he would benefit from a chance to digest the information the Committee heard today so would like to take a pause on the request and to revisit it at the August meeting.

Sen. Libby said he was thinking in a similar way, saying one of the challenges the GOC has on this issue is that they have been presented a case study to evaluate and their charge is to consider systemic problems in State government. When they are presented with data that suggest the appeal process that has been established is working, but at the same time, they have a compelling case before them and it is the gray area of whether further analysis is appropriate for this Committee or whether the State and Local Government (SLG) Committee, who has jurisdiction over procurement and DAFS, might consider changes to the statute in the next session. He said that is one of the questions he would like time to think about.

Director Nixon said one of the GOC's charges is they tend to look at individual complaints when they are indicative of systemic problems, but otherwise the attention of the Committee is, and has been, on looking at overall systemic issues in State government. Ultimately, what the Committee is deciding is whether to put this request for review on OPEGA's Work Plan for an evaluation or review with specific scope questions or to put it on the Stand-by List for potential future work. Also, as noted by Sen. Libby, there is the option to refer it to another entity, perhaps to the SLG Committee.

Rep. Dillingham concurred with Sen. Bennett. There is a lot of information to review and she is not prepared to say which way the GOC should go without having more time to process and think about what was before them today.

Rep. McDonald said she was happy to have the opportunity to digest all the information, but said she is leaning towards not adding the review to the Work Plan or Stand-by List. She said while this is a single compelling case, she is not seeing any evidence that it leads to a systemic problem throughout the system and considering that the GOC's work is of a broader scope, she would consider referring the matter to the SLG Committee if they had a directive to give them. At this time, she is not leaning towards keeping this with the GOC.

Sen. Libby said the Committee appreciated everyone joining the meeting and providing information. It appears the GOC is leaning towards keeping this matter on their unfinished business and will move it forward to the August meeting for further deliberation. He asked if there were any objections from Committee members on that course of action. Members had no objection.

The Committee thanked those at the meeting for providing information and answering their questions.

Report from Director

• Status of projects in process

Director Nixon said OPEGA just presented their report on the **Maine's Citizen Initiative and People's Veto Process** and are working actively on finishing and drafting the **Seed Capital Investment Tax Credit** report to come to the Committee in August. OPEGA is moving along on the **Maine Commission on Indigent Legal Services: Indigency Determination** project. As things get freed up, staff will start looking at the **Follow-up Survey of Frontline Workers at DHHS/OCFS** and are actively underway on the evaluation of **Credit for Rehabilitation of Historic Properties** and the **Research Expense Tax Credit**. The **Expedited Tax Reviews** for this year are also being worked on.

OPEGA has been tracking legislation and when in a final disposition, the Director will let the Committee know where things land that are relevant to current or recent reviews.

Sen. Bailey said she is horrified, as she is sure others are as well, of the reports regarding the 4 children who have died in the month of June. She read in the paper that now the DHHS is seeking an evaluation from the Casey Foundation. She wondered where the GOC was in terms of having a report from Dr. Landry, Director of Child and Family Services and how that fits in to what is currently happening in real time.

Sen. Libby said, as members know, the Co-Chairs work with OPEGA staff to develop the schedule for the GOC's meetings and had penciled in for themselves a mid-year report back from the Child Welfare Ombudsman. Typically, since being engaged in the work of oversight of Child Protective Services, the GOC has heard from the Ombudsman on an annual basis. Ms. Alberi's report from January was fairly concerning and he knows there have been lots of conversations between the various offices and advocates to try to get a handle on things. The GOC

was going to have a mid-year update and that was before their reading of any of the news during the last 4 weeks. Obviously, the ground has shifted quite a bit and under "Planning for upcoming meetings", he was going to suggest that the GOC meet in July to hear from Dr. Landry and Ms. Alberi. He is also considering asking the Attorney General, as well as a representative from the Judicial Branch to attend the meeting. He would suggest the Committee meet on Wednesday, July 14th.

Rep. McDonald said she and Sen. Libby had a brief conversation about having a July meeting and the need for it given the circumstances. She said she is available on July 14th, and would like to have a conversation of whether the Committee will meet on Zoom or in person.

Sen. Libby said he was in favor of resuming in-person meetings. Obviously, there are benefits to the remote format and there are also challenges and everybody is aware of them. He is putting on the table that his proposal for the next meeting is July 14th and is open to that meeting being in person in Room 220 of the Cross Office Building.

Sen. Bennett said he was in favor of both of Sen. Libby's suggestions.

Rep. Arata asked if a hybrid meeting was an option, and said she would not be able to be at the July 14th meeting. Sen. Libby noted that the all in person or all zoom meetings are doable, but the hybrid meetings are a lot more complicated and thinks only the AFA Committee room is set up for that type of meeting.

Rep. McDonald said she would prefer moving the GOC meeting to a 10:00 a.m. start time rather than 9:00 a.m. Other members agreed to that.

Sen. Libby said the Committee will be meeting at 10:00 a.m. on July 14, 2021. OPEGA staff will explore hybrid options for folks who are unable to be present at the Capital, but thinks members are intending to meet in-person.

Planning for upcoming meetings

Sen. Libby said the GOC will have public comment, work session and vote on OPEGA's report on Maine Citizen Initiative and People's Veto Process at an interim meeting and asked members if they wanted that at the July or August meeting. Members agreed they would keep the July meeting focused on child welfare and the discussion and the other Committee work for the August meeting. The Committee will also hear the presentation of OPEGA's Report on Seed Capital Investment Tax Credit at the August meeting.

Next GOC meeting date

The next Committee meeting will be in-person and scheduled for July 14, 2021 at 10:00 a.m.

Adjourn

The Chair, Sen. Libby, adjourned the meeting at 11:49 a.m.

June 22, 2021

Lucia Nixon, Ph.D., Director
Office of Program Evaluation & Government Accountability
82 State House Station
Augusta, ME 04333-0082

Re: Invitation to attend GOC meeting on 6/25

Dear Director Nixon,

DAFS representatives will be available for the meeting of the Government Oversight Committee (GOC) on Friday, June 25, 2021. Thank you for the invitation. In anticipation, we have compiled the following for your review. Please also feel free to transmit this document to GOC members in preparation for the meeting.

Overview

Over the past 12 years, DAFS' Bureau of General Services' Division of Procurement Services has matured from an organization focused solely on processing purchase transactions to one that mitigates unnecessary risk to the State, ensuring best value for every dollar spent, and facilitating open and transparent purchasing.

	2015	2016	2017	2018	2019	2020	TOTALS
Procurements	935	2268	2311	2351	2360	1350	11575
Appeal requests	9	10	4	12	7	7	49
Appeals granted	2	2	0	8	7	6	25
Stay requests	5	5	1	3	2	1	17
Stays granted	0	3	0	1	0	0	4
Awards invalidated	1	1	0	1	0	1	4

Over the last five years, DAFS has published 11,575 procurement requests. Of these, less than half a percentage point (0.4233 percent) have led to an appeal request and, all told, less than four-hundredths of one percentage point (0.0346 percent) of solicitations have been invalidated – as in this instance with Mr. Woods' company, TideSmart Global.

In fact, this appeal was one of only seven requested in 2020, six of which were granted. Of those six, this is the only appeal that was invalidated. Despite the rarity of this occurrence, DAFS followed all appropriate statutory and other governing obligations, as well as procurement best practices.

Governance

Per State statute, DAFS' Director of the Bureau of General Services shall purchase all goods and services for the State in a manner that best secures the greatest possible economy and unless otherwise provided by law, purchases shall be made through competitive bidding per 5 M.R.S.A. § 1825-B. The Request for Proposal (RFP) process is governed by 5 M.R.S.A. § 1825-D and Chapter 110 "Rules for the Purchase of Services and Awards." The RFP appeal process is governed by 5 M.R.S.A. § 1825-E and Ch. 120 "Rules for Appeals of Contract and Grants Awards."

RFP Process

The role of Procurement Services is to lend purchasing expertise to State agencies, and Procurement Services acts as a facilitator to that end for all State agencies – while State agencies act as subject matter experts (SMEs) and are the true arbiter of the goods and services they need. To use a highway safety analogy: Procurement Services maintains the roads – and the individual State agencies are the drivers. In fact, many State agencies employ highly qualified contracting specialists to collaborate with Procurement Services to this very end.

The RFP process is conducted in five phases, which are well outlined to State agencies in a number of formats. Perhaps most helpful is [this guide for conducting an RFP process](#).

[In addition to the guide linked above](#), Procurement Services has created a number of trainings for State agencies on the procurement process, which are linked below.

Overall process:

- [Step-by-step instructions on the RFP process](#)
- [Key Procurement Dates GUIDE](#)
- [Procurements greater than \\$10,000 GUIDE](#)
- [Procurements less than \\$10,000 GUIDE](#)
- [Summary form of pertinent information for the RFP process](#)
- [Overview of purchasing a commodity GUIDE](#)

Guidance by phase:

- [RFP Phase 1 VIDEO \(transcript\)](#)
- [RFP Phase 2 VIDEO \(transcript\)](#)
- [RFP template with directions and guidance](#)
- [Guidelines for completing the evaluation and scoring process](#)

Guidance by role:

- [Role of the RFP Coordinator \(at agencies\) VIDEO \(transcript\)](#)
- [RFP Coordinator acknowledgment form to assume responsibilities of the position](#)
- [RFP Evaluator acknowledgment form to assume responsibilities of the position](#)

Please also see Appendix A for a narrative of the RFP process.

Appeal Process

After an award, parties have 15 days to file a request for appeal. An appeal hearing must be held sixty days from the date of the aggrieved party's (petitioner's) request for appeal, whereby the petitioner shall present evidence to substantiate specific grievances stated in the appeal hearing request. Additionally, per Chapter 120, "other parties of interest may petition to intervene" in an appeal hearing and Procurement Services may allow or disallow such participation in writing within seven calendar days of receipt of the request to intervene; in this case, the winning bidder, Alliance Sports Marketing, petitioned to intervene in the appeal hearing, and that petition was granted by Procurement Services. The hearing is overseen by a presiding officer to control all aspects of the hearing, rule on point of order, rule on all objections, and may question witnesses.

An appeal committee consisting of three people from State government shall determine whether to *validate* or *invalidate* the contract award decision under appeal; the actions of the appeal committee are limited to those options only.

During an appeal, a petitioner bears the burden of proving that one or more of the following occurred:

- A. Violation of law;
- B. Irregularities creating fundamental unfairness; or
- C. Arbitrary or capricious award.

The petitioner (in this case, TideSmart Global) shall present evidence first using exhibits and witnesses who may be cross-examined by the State and any intervenors (if applicable). The State and/or any intervenor (in this case, Alliance Sports Marketing) shall have the opportunity to submit evidence relevant to the appeal through witnesses and exhibits. The appeal committee shall have the ability to issue subpoenas, subject to approval by the Attorney General, for witnesses not willing to testify.

The appeal committee shall consider all evidence entered into the record and shall look for clear and convincing evidence that one or more of the above were committed. A written decision shall be submitted to DAFS' Director of the Bureau of General Services within fifteen calendar days following the final day of the hearing of appeal. The Director shall notify the petitioner, the contracting agency, and all intervenors of this decision within ten calendar days.

Timeline of this RFP (#202006107) with statutory reference

DATE <i>(all in 2020)</i>	ACTION	RULE / STATUTE	REQUIRED DATE <i>(date by which we would have had to comply)</i>
July 14	RFP posted / Email bulletin distributed	5 MRSA §1825-D	Public must be made aware of contracts for which bids are required
July 14 through 16	Kennebec Journal ad'	Ch. 110	Three consecutive days
None	Amendment		
July 23	Questions due		
July 29	Answers posted	Ch. 110	A minimum of 7 days prior to proposal opening date (July 29)
August 5	Proposals due		
August 6 through August 31	Evaluation process		
September 2	Award package submitted to DAFS by contracting agency's selection panel		
September 2	Award package approved by DAFS		
September 2	Award notifications sent to bidders	Ch. 110	Contracting agency must notify all bidders
September 14	Stay request and appeal hearing request submitted to DAFS by TideSmart Global	Ch. 120	Stay request must be filed within 10 calendar days of award (September 11) + Appeal request must be filed 15 calendar days of award (September 16)
September 15	Stay request denied	Ch. 120	BGS Director must notify petitioner within 7 days (September 20)
September 15	Appeal hearing granted	Ch. 120	BGS Director must notify petitioner within 15 days (September 29)
September 19	Request from awarded bidder for intervenor status		
September 23	Intervenor status granted	Ch. 120	Director of Division of Procurement Services must notify within 7 calendar days (September 25)

October 13, 23, 27	Pre-hearing conference with parties		
October 21	Exhibits due		
October 23	Pre-hearing conference with panelists		
October 30 and November 2, 12, 13	Appeal hearing		
November 18	Appeal discussion with panelists		
December 2	Appeal decision sent to BGS Director	Ch. 120	15 days following final day of hearing (November 30)
December 7	Appeal decision sent to parties	Ch. 120	BGS Director shall notify parties within 10 days (December 11)

Overview of this RFP (#202006107)

Following the standard process as outlined above, the Department of Public Safety’s Bureau of Highway Safety (MeBHS) sought proposals to provide Sports Marketing Services. The selected vendor would be marketing in professional sports settings and special events promoting MeBHS behavioral safety programs. The marketing methods included public service announcements, signage, information displays, and personal interaction with the public using local law enforcement and MeBHS staff during events. The primary audience being young drivers between 20-24, drivers between 25-55, and teen and young adult traffic safety education at high school and college events.

The RFP anticipated making one award with a contract start date of October 1, 2020 and included subsequent renewals through September 30, 2025.

The RFP included the goals the MeBHS hoped to achieve, the duties of the awarded bidder, events required to attend, and interactive event displays. All bidders were required to be brief and concise in responding to what the bidder intended to offer, giving particular attention to describing the methods and resources used to accomplish the tasks involved.

The cost submitted by bidders was required to cover the entire period of the initial contract including the costs necessary for the bidders to fully comply with the contract terms, conditions, and RFP requirements. Per standard practices, it was clearly stated that costs related to the preparation of the proposal or negotiation of the contract were not to be included.

All proposals would be evaluated by qualified reviewers judging the merits of the proposals and scored on a 100-point scale measuring the degree to which each proposal met the following criteria: Organization Qualifications and Experience (35 points); Proposed Services (35 points); Cost Proposal (30 points).

In terms of the 30 points available for the cost proposal, each RFP submission was assigned a score according to a mathematical formula. The lowest bid was awarded 30 points. Proposals with higher bid values were awarded proportionately fewer points calculated in comparison with the lowest bid. The scoring formula used is: (Lowest submitted cost proposal / Cost of proposal being scored) * 30 = pro-rated score.

In response to this RFP, two proposals were submitted:

Date/Time	Bidder	Location (City, State)	Price
8/4/2020 11:39 AM	Alliance Sports Marketing LLC	Nashville, TN	\$735,000
8/5/2020 5:50 PM	TideSmart Global	Falmouth, ME	\$747,272

Three individuals evaluated the proposals:

- Nicholas Brown, Department of Public Safety, Highway Safety Program Coordinator
- Ann Wood, Department of Public Safety, Contract Grant Specialist
- Jamie Pelotte, Department of Public Safety, Senior Contract Grant Specialist

(Please note: The State Procurement Review Committee is invoked only when the resulting contract will total more than \$1 million, which was not the case with this RFP.)

The evaluators familiarized themselves with the RFP, the summary of questions and answers, and each of the proposals. Individual evaluation notes were taken by each evaluation team member noting any positives or strengths, negatives or weaknesses, questions or uncertain information, and anything the evaluator found interesting or innovative.

On August 26, 2020 the evaluation team met to conduct consensus scoring whereby the evaluation arrives at a consensus regarding assignment of points on each evaluation criterion. Points were assigned to each section of the proposal based on how many points “earned”.

Below is the master score sheet reflecting the resulting points of the two proposals:

PROPOSAL SUBMITTED BY:		TideSmart Global		Alliance Sports Marketing LLC	
COST:		Cost:	747,272.10	Cost:	735,000.00
EVALUATION ITEM	POINTS AVAIL.				
Section I: Organization Qualifications and Experience	35	30		35	
Section II: Proposed Services	35	30		35	
Section III: Cost Proposal	30	29.5		30	
TOTAL	100	89.5		100	

Appeal of this RFP (#202006107)

TideSmart Global submitted a request for stay and a request for appeal to Procurement Services on September 14, 2020. The following day, Procurement Services denied the request for stay and granted the request for appeal. The awarded party, Alliance Sports Marketing, applied for intervenor status on September 19, 2020 in order to participate in the hearing, and DAFS granted that status on September 23, 2020.

Procurement Services followed statute and rules to arrange the appeal hearing. Submissions were due by October 21, 2020, with multiple pre-trial hearings being held beginning in mid-October and through the remainder of the month. The appeal hearing began on October 20, 2020.

The appeal panel was comprised of:

- Dick Thompson, Department of Administrative & Financial Services, Deputy Commissioner
- Lindsey Kendall, Department of Administrative & Financial Services, Procurement Analyst II
- Gilbert Bilodeau, Department of Administrative & Financial Services, Service Center Director

The appeal panel considered five arguments made by the petitioner (TideSmart Global) – and, ultimately, that appeal panel invalidated the award made to Alliance Sports Marketing for “irregularities creating fundamental unfairness” as described below:

1. The petitioner alleged that the RFP’s scope of work and associated appendices were lacking sufficient detail to aid in the development of an accurate cost proposal. Chapter 110 states, “The request for proposal must contain at a minimum a clear definition (scope) of the project, the evaluation criteria and relative scoring weights to be applied, the proposal opening date and time, and agency contact person.” The panel found the scope of work did not meet the requirement in Chapter 110 referenced above. The only detail pertaining to the actual work to be done was found in Appendix H, which still failed to give relevant parameters for each event in order to associate accurate cost. This level of detail, if not conveyed through the RFP, would only be the knowledge of the incumbent, and is therefore fundamentally unfair.
2. The petitioner alleged that through evidence shown on the RFP Evaluation and Planning Form, MeBHS did not adequately research the market for qualified potential bidders other than the incumbent. The panel found that though there was shown to be little effort by MeBHS to research other potential bidders, the minimum requirements of the form were met, and there was no evidence that the Procurement Services found the form to be unsatisfactory.
3. The petitioner alleged that the ongoing COVID-19 pandemic should have been included in the RFP, as the services requested could very well be impacted by the pandemic. The panel found that the COVID-19 pandemic was not, appropriately, considered in the consensus scoring of either proposal.

4. The petitioner attempted to show evidence that deemed the members of the evaluation team unfit for their role in evaluating the proposals as a result of the RFP. The panel found that all three members of the evaluation team were chosen by MeBHS and followed the processes described within Chapter 110.
5. The appellant alleged that the eligibility requirements within the RFP were arbitrary in nature, creating a fundamental unfairness. The panel reviewed the evidence, testimony, and the eligibility requirements of the RFP and resolved that the requirement for bidders to have already obtained certification as a Road Safety Professional (RSP) prior to the proposal due date was indeed unusual. The panel discovered that the intervenor (Alliance Sports Marketing) had contacted Lauren Stewart of MeBHS on May 7, 2020 and noted that the RSP certification had been obtained by Brandon Vonderharr, President of Alliance Sports Marketing. It was not clear, however, what MeBHS did to research the RSP certification and its prevalence in the industry at the time of drafting the RFP, or how MeBHS would have otherwise considered the RSP certification necessary enough to include as an eligibility requirement without the email from the intervenor.

The appeal hearing concluded on November 14, 2020. A discussion with the appeal panel took place on November 18, 2020, and Procurement Services issued its appeal decision internally on December 2, 2020, which was then transmitted to the parties on December 7, 2020.

Overview

TideSmart Global sought the remedy of invalidation of the contract award and the three person appeal panel granted the relief sought, and this was the extent of their jurisdiction.

Except as provided in [paragraph B](#), an appeal panel may not modify the contract or grant award under appeal, or make a new award. Pursuant to language in the RFP, “[i]ssuance of [an] RFP does not commit the Department to issue an award or to pay expenses incurred by a Bidder in the preparation of a response to th[e] RFP.”

Should MeBHS still need the services originally outlined, a competitive bid would have to be initiated. At this time, MeBHS has not submitted a new RFP draft to Procurement Services for review.

Thank you,



Kirsten LC Figueroa
Commissioner
Department of Administrative & Financial Services

Appendix A – RFP Process

The RFP process is conducted in five phases – please review [this guide for conducting an RFP process](#).

Prior to commencing an RFP process, State agencies should understand the basic needs and requirements for the good / service they hope to procure, have a clear budget for the resulting agreement, and ensure their Commissioner is supportive of said.

Phase 1 – Drafting RFP and Identifying the Evaluation Team: State agencies draft the RFP utilizing the template provided by DAFS Procurement Services with a focus on creating an “introductory summary of the purchase sought” (Part I) and outlining the specific deliverables or requirements desired (Part II, Scope of Services), identifying along the way any questions for Procurement Services. State agencies also draft the RFP summary form, which identifies the expected contract start date, budgeted contract amount, the goods / services sought, experience purchasing the goods / services, research conducted to identify possible bidders, the team of evaluators who will be reviewing the proposals submitted – and obtain the signature of their Commissioner or designee; this mitigates the risk for any perceived or validated conflict throughout the process.

Phase 2 – Review / Approval of the RFP: State agencies submit RFPs and summary forms to Procurement Services for review, comments, and approval. Procurement Services reviews each for completion, clear terms, ability for the marketplace to understand the purchase requirements, fairness to all potential bidders, violations of law, and document quality. Once all feedback and comments have been resolved between Procurement Services and State agencies, State agencies are notified that the documentation can be finalized ahead of Phase 3.

Phase 3 – Publication / Release of RFP: The RFP is finalized by State agencies and the final RFP document released on the Procurement Services’ website, shared via DAFS’ Procurement Services email alert, and posted in the *Kennebec Journal*. Once the RFP is released publicly, State agencies ensures are responsible for notifying any potential bidders of the opportunity to bid.

Potential bidders have the opportunity to submit questions in writing (or sometimes at an in-person bidders’ conference). State agencies acknowledge all questions, and provide a single document that answers all submitted questions, which is reviewed, approved, and posted by Procurement Services. If there are any necessary amendments to make to the RFP, based upon the questions submitted, Procurement Services also reviews, approves, and posts those amendments. All amendments and answers must be posted a minimum of seven days prior to the proposal due date.

Proposals are received by Procurement Services via electronic submission. All proposals are logged and reviewed for timeliness. Thereafter, Procurement Services remits all proposals to agencies for evaluation and award.

Phase 4 – Proposal Evaluation and Award: The agencies’ RFP coordinator receives the proposals and reviews any potential conflict of interests (perceived or real). Once each evaluator has verified there are no conflicts, individual evaluators review the proposals to ensure a basic understanding of what is being offered and prepares notes to aid in conversation with fellow members of the

evaluation team. Thereafter, the evaluation team meets and conducts consensus scoring. The evaluation team reviews one proposal, one section at a time and discusses the intricacies of the proposal comparing to what was requested in the RFP. After each section, the evaluators come to consensus regarding the score allocated for that section. Each RFP is based on a 100-point scale with the cost section a minimum of 25 percent of the total points. Once all the proposals are reviewed and scored, the evaluation team prepares final documents and submits to Procurement Services for review and approval prior to notifying bidders of the award. After receiving approval from Procurement Services, State agencies send conditional award notifications to all bidders.

Phase 5 – Post-Award: Per State statute, any aggrieved party has ten days to request a stay of the awarded contract and fifteen days to request an appeal hearing. All appeals are submitted to DAFS' Director of the Bureau of General Services. During this time, State agencies may be negotiating with the awarded bidder.

Helpful Links FMI

DAFS – Division of Procurement Services	https://www.maine.gov/dafs/bbm/procurementservices/
DAFS – Policies and Procedures	https://www.maine.gov/dafs/bbm/procurementservices/Policies-Procedures
Purchasing Statutes: Title 5, Administrative Procedures and Services, Chapter 155, Purchases	http://www.mainelegislature.org/legis/statutes/5/title5ch155sec0.html
5 MRSA §1825-B Bids, awards, contracts and grants	http://www.mainelegislature.org/legis/statutes/5/title5sec1825-B.html
5 MRSA §1825-D. Public Notice and review of bids	http://www.mainelegislature.org/legis/statutes/5/title5sec1825-D.html
5 MRSA §1825-E. Appeal Procedures	http://www.mainelegislature.org/legis/statutes/5/title5sec1825-E.html
Ch. 110 – Rules for the Purchase of Services and Awards	https://www.maine.gov/dafs/procurementservices/policies-procedures/chapter-110
Ch. 120 – Rules for Appeals of Contract and Grant Awards	https://www.maine.gov/dafs/procurementservices/policies-procedures/chapter-120
Executive Order 2016-001 – An Order Re-establishing the State Procurement Review Committee	http://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Executive_Orders&id=671521&v=article2011
LD 875 – An Act to Protect Taxpayers in the Privatization of Services and To Establish the State Procurement Review Committee	http://legislature.maine.gov/legis/bills/display_ps.asp?LD=875&snum=130
Vendor and Bid Opportunities	https://www.maine.gov/dafs/bbm/procurementservices/vendors
Request for Proposals	https://www.maine.gov/dafs/bbm/procurementservices/vendors/rfps