



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

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*Testimony of Anya Trundy, Deputy Commissioner
Department of Administrative and Financial Services
In Opposition to*

LD 1516, An Act to Strengthen the Maine Development Foundation

Sponsored by Rep. Tiffany Roberts

To the Joint Standing Committee on Housing and Economic Development

Senator Curry, Representative Gere, and members of the Joint Standing Committee on Housing and Economic Development; I am Anya Trundy, a Deputy Commissioner for the Department of Administrative and Financial Services (DAFS). I am providing testimony on behalf of the Office of State Procurement Services in Opposition to Section 3 of the bill. DAFS does not have an opinion on the other provisions of the bill.

Section 3 would amend State Purchasing statutes under Title, 5, Chapter 155 to establish a unique, exclusive opportunity for State departments and agencies to waive competitive bidding and sole-source work to the Maine Development Foundation (MDF). DAFS' objection is not specific to MDF but is rather a more fundamental objection to establishing a preference for any particular vendor or organization in statute and concern about setting this precedent.

The State's general procurement statutes require competitive bidding for all goods and services. This framework exists to ensure that: 1) the opportunity to do business with and profit from the State is open to all qualified vendors; 2) the process for awarding State contracts and grants is transparent and fair; and 3) awards are made based upon best value. Upholding these principles of competition is the responsibility of DAFS.

The competitive bidding requirement can be waived under certain circumstances (5 MRS §1825-B), including:

- A. In response to an emergency, when explicitly authorized by the Governor or Governor's designee to make immediately needed purchases;
- B. When reasonable investigation concludes that the unit or item sought is only available from one source;
- C. With regard to the procurement of petroleum products;
- D. When the purchase is part of a cooperative project between the State and either the UMaine System, the Community College System, or a Maine non-profit higher-education institution;
- E. Expenditures of \$25,000 or less, when informal proposals or bids have been obtained; and

F. Expenditures of \$10,000 or less, when procurement from a single source would be the most economical, effective, and appropriate means of fulfilling the demonstrated need.

DAFS regards these justification-based waiver provisions as substantially different from creating a unique, exclusive sole-source opportunity for MDF. Within these waiver provisions there is existing opportunity for State departments and agencies to sole-source from MDF when justifiable and in consideration of amount.

From a cursory review of RFPs issued by DECD and GOPIF since the start of the Mills Administration, I was only able to identify one solicitation that MDP submitted a proposal in response to—there were eight bidders, and MDF's proposal scored fifth among them. These results demonstrate why awarding MDF a sole source contract for this work would have been objectional: 1) there was ample competition for this work, and 2) a competitive process determined multiple vendors to be a better value than MDF offered.

Additionally, in the last year, DAFS became aware of a 2008 OPEGA Report regarding Procurement that was critical of the extent to which State departments and agencies previously utilized Cooperative Agreements with higher-education institutions, even though they are explicitly permitted in statute. In response, Cooperative Agreements have significantly reduced in number and aggregate value since the 2008 OPEGA Report, in turn mitigating the financial risk of incurring excessive costs. In 2007, prior to OPEGA's review, there were 56 Cooperative Agreements totaling \$22.8 million. In 2024, that number was 23 and totaled \$8.3 million.

In closing, creating a unique, exclusive sole-sourcing opportunity for a singular non-profit organization in statute may make it allowable, but it is DAFS's strong opinion that it is neither best practice nor good policy, and that upholding the competitive bid process allows the State to be confident that tax dollars are being spent on the best value, and defend the openness, fairness, and transparency of each award.