



SEN. ELIZABETH H. MITCHELL, CHAIR
REP. MARILYN E. CANAVAN, CHAIR

MEMBERS:

SEN. PHILIP L. BARTLETT, II
SEN. JONATHAN T.E. COURTNEY
SEN. DANA L. DOW
SEN. JOSEPH C. PERRY
SEN. KEVIN L. RAYE
REP. ANDREA M. BOLAND
REP. SCOTT E. LANSLEY
REP. EVERETT W. MCLEOD, SR.
REP. PEGGY A. PENDLETON
REP. MICHAEL A. VAUGHAN

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
September 15, 2008
Accepted October 7, 2008

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee to order at 10:15 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Mitchell and Sen. Courtney
Joining the meeting in progress: Sen. Perry
Absent: Sen. Bartlett, Sen. Raye and Sen. Dow

Representatives: Rep. Canavan, Rep. Pendleton, Rep. Boland and Rep. Vaughan
Absent: Rep. Lansley and Rep. McLeod,

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Jennifer Reichenbach, Principal Analyst, OPEGA
Wendy Cherubini, Senior Analyst, OPEGA
Scott Farwell, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

SUMMARY OF JULY 30, 2008 MEETING

Chair Mitchell asked members if they had any changes to the July 30, 2008 Meeting Summary. Hearing none, the Summary was accepted as written.

Chair Mitchell asked if there was objection to taking items out of order. Hearing none, the Committee moved to a discussion of the memos from the Government Oversight Committee regarding previous OPEGA Reviews to the following Joint Standing Committees:

- **Economic Development Programs**
 - Appropriations and Financial Affairs
 - Business, Research and Economic Development
 - Taxation
- **Management of State Lands**
 - Agriculture, Conservation and Forestry
 - State and Local Government
- **Guardian Ad Litem – Follow Up on Judiciary Actions**
 - Judiciary

Director Ashcroft was looking for direction from the GOC as to whether to send the memos to the 123rd Legislative Committees, wait until the 124th Legislative Committees were established, or send to both the 123rd and 124th. The GOC recommended that the memos be given to both the 123rd and 124th Committees.

REPORT FROM OPEGA DIRECTOR

- **Status of Audits in Progress**

Director Ashcroft reported that there are three reviews in progress.

- **Contracts for Professional Services** – completed and the final report will be presented later in today's meeting.
- **Leased Office Space** – is in the fieldwork phase.
- **Children's Mental Health** – is in the preliminary research phase and working to determine the particular questions OPEGA will recommend to the GOC as a project direction. OPEGA's recommendation to the GOC will be included on the Committee's next meeting agenda.

- **Contact with NCSL re: OPEGA Performance Measures**

Director Ashcroft reminded members of their previous discussions regarding seeking NCSL's assistance in establishing some performance measures for OPEGA and/or possibly conducting a broad based review of the Legislature's oversight function and the different elements that play into that.

Director Ashcroft contacted NCSL and they felt they could perform the broader study. The cost was not discussed because Director Ashcroft had difficulty directly reaching the NCSL representative that would be in charge of such a review.

As regards to performance measures, the Director noted that ideally OPEGA performance measures should be directly related to the goals and objectives that the Office is trying to achieve. Director Ashcroft mentioned that OPEGA will be having a 2 day planning retreat with the focus of the discussion on establishing goals and objectives for the Office and would be establishing the related performance measures. OPEGA will report back to the GOC at its next meeting.

- **OPEGA Staffing**

Director Ashcroft reported on her efforts to fill the position within OPEGA that has been vacant since February. Internal recruitments within the Legislature led to the promotion of 2 current OPEGA staff members, which led to one open Analyst position. This position has been advertised publicly and OPEGA is reviewing the applications. It is Director Ashcroft's goal to have the position filled by mid to late October.

Chair Canavan requested that OPEGA's potential use of interns be discussed. Several members of the GOC had been contacted by students who thought they may be a resource for OPEGA. Chair Canavan felt that giving young people opportunities to work in an environment like OPEGA, could result in increased interest in public service. Chair Canavan asked for Director Ashcroft's thoughts on the matter.

Director Ashcroft said she believes it is a worthy pursuit, but is not sure the timing is good for OPEGA to take on right now. OPEGA is in the process of filling a position and will be training the new person in its processes. Because of the nature of OPEGA's work, there are only various pieces that an intern would be able to help with. It is something she would like to consider in the future, and may want to look at next year once OPEGA has its biennial work plan for 2009. Director Ashcroft also noted that she has physical office space constraints.

PRESENTATION OF FINAL REPORT

State Contracting for Professional Services: Procurement Process

Director Ashcroft reminded the GOC that initially State Contracting for Professional Services was one question related to the State Administration Staffing Review. State Contracting was broken out because it became a project in and of itself.

Director Ashcroft introduced Wendy Cherubini, lead OPEGA Analyst on the Report, and Scott Farwell, who assisted and will be presenting the Report.

The discussion and questions regarding the State Contracting for Professional Services Report included:

- what percentage of the 295 contracts reviewed were sole source contracts;
- why bidding was used when it was not necessary;
- the two separate processes for competitive bidding:
 - call three or four vendors and ask for a price, and
 - the Request For Proposal (RFP), which is a much more detailed process;
- how is it determined which agencies are allowed to procure services independently of Purchases such that contracts are not subject to Purchases' review and approval;
- whether guidelines for those agencies are outlined in statute;
- whether guidelines for sole source contracts are in the statutes;
- if the reason some of the responsibility for contracts for \$100,000 to \$1 million was delegated due to Purchases having insufficient staff to keep up;
- whether the Contract Review Committee is an open process, open to the public;
- which findings in the Report, on a risk continuum, pose the greatest risk in terms of oversight;
- the need for greater accountability and transparency around any of the decisions made where the State was not seeking a competitive process; and
- whether the goal on Cooperative Agreement is purely to help the agency.

The GOC thanked Mr. Farwell and Ms. Cherubini for their work on the Report and its presentation.

The Committee will hold a public hearing and comment period on the Final Report on State Contracting for Professional Services: Procurement Process at its next meeting, and will also vote on the report at that meeting.

UNFINISHED BUSINESS

• Potential Focuses for MaineCare Related Review

Director Ashcroft said the GOC needs to decide whether or not there is a MaineCare-related review, in addition to the Children's Mental Health which is in progress, that the Committee would like OPEGA to begin work on. At the last GOC meeting, members requested more information before making a decision on which, if any, topic it wanted OPEGA to proceed on. Director Ashcroft was to attend and get feedback from the Health and Human Services Joint Standing Committee at its meeting on September 10th. The additional time was also intended to give Commissioner Harvey an opportunity to attend the next meeting. Director Ashcroft said the Health and Human Services Committee's meeting was rescheduled to September 16th and Commissioner Harvey was unable to attend today's meeting. Consequently, the GOC would not be receiving the additional information it wanted at this meeting. The GOC agreed it wanted to wait for that information before making a decision.

Director Ashcroft presented another alternative to consider, if the GOC wanted OPEGA to take on another Medicaid-related review to be completed by early next session. She noted that reviews done by other states and the Government Accountability Office recently had focused on the following three areas and that OPEGA could just pursue one of these on the assumption that these may also be areas of risk for Maine:

- Durable Medical Equipment and Supplies;
- Prescription Drugs; and
- Long-term Care.

Director Ashcroft said she has talked briefly with Commissioner Harvey regarding the above listed areas and the the Commissioner has interest in the durable medical equipment and supplies topic. She also noted that a Commission has recently been appointed to look at long-term care and that there have been past efforts to contain costs with regard to prescription drugs.

Representatives Vaughan and Boland stated their interest in OPEGA reviewing the prescription drugs topic.

Director Ashcroft reminded the Committee that when a topic is selected for OPEGA review, one of the first things in OPEGA's procedure during initial research is to determine whether other recent reviews have been done on the topic and what was covered. This is to make sure that if OPEGA is going to pick out a scope, it is not going to overlap or duplicate something that has already been done. OPEGA then returns to the GOC with its recommendations on the review topic.

Following Committee discussion the following motion was presented:

Motion: That the Government Oversight Committee moves to put Durable Medical Equipment and Supplies Review on OPEGA's Work Plan as a priority item and that OPEGA will begin its scope of the Review. (Motion by Rep. Pendleton, second by Sen. Perry, PASSED, unanimous vote 7-0).

Hearing no objection to taking the item out of order, Chair Mitchell moved to **New Business, OPEGA Work Plan Priorities.**

NEW BUSINESS

• OPEGA Work Plan Priorities

Director Ashcroft asked if the GOC would decide on another review for OPEGA to begin working on. She referred members to OPEGA's Biennial Work Plan for 2007-2008 and the list of Topics of Interest to Legislators for GOC Consideration in their notebooks.

After a brief discussion the Committee voted on the following:

Motion: That the Government Oversight Committee moved that OPEGA proceed with the review of Maine Department of Transportation Operations and Maintenance listed on its Biennial Work Plan for 2007-2008. (Motion by Rep. Canavan, second by Rep. Pendleton, PASSED, unanimous vote 8-0).

The GOC agreed to wait for its meeting in October to choose another topic for OPEGA review.

UNFINISHED BUSINESS (con't)

- **Potential Changes to OPEGA Statute Regarding Confidentiality of Work Papers**

This item will be added to the next GOC meeting agenda, early in the agenda so there is adequate time to discuss this complicated topic.

NEW BUSINESS (con't)

- **Potential OPEGA Review Related to Fund for Healthy Maine**

Not discussed.

- **Roles of Non-partisan Offices in Contributing to Legislative Oversight Function**

Director Ashcroft reported that OPEGA is moving forward with discussions with the other nonpartisan offices regarding coordination in assisting the Legislature with its oversight functions. She has a meeting scheduled with Grant Pennoyer, Patrick Norton and David Boulter on September 29th to start exploring what that might look like and will then bring that information back to the GOC for further discussion.

- **Proposed Web Presentation of OPEGA's Scope Statement on Leased Office Space**

Director Ashcroft said that in the past when the Committee has approved what the final scope will be for a review, a separate document has been created to post on the Web that describes the scope. To increase efficiency, OPEGA considered alternatives for making a project scope available on the Web. She referred the members to the Scope Statement on Leased Office Space in their notebooks as an example of a new idea OPEGA was proposing. The Statement is on GOC letterhead, indicates that the Committee has given its approval and what the study questions will be per the GOC's vote. OPEGA references its recommendation for project direction and that will be linked on the website so people can get more details regarding what was in OPEGA's statement.

Motion: That the Government Oversight Committee approves the proposed procedure for the Web presentation of Leased Office Space and for future OPEGA Web Scope Statements. (Motion by Sen. Perry, second by Rep. Boland, PASSED, unanimous vote, 7-0).

SCHEDULE NEXT COMMITTEE MEETING

To be scheduled.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:03 p.m. (Motion by Sen. Perry, second by Rep. Vaughan, unanimous).