



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

October 7, 2008

Accepted as Written

CALL TO ORDER

The Chair, Sen. Mitchell called the Government Oversight Committee to order at 9:44 a.m. in the Burton Cross Building.

Senators:	Sen. Mitchell, Sen. Raye, and Sen. Dow Absent: Sen. Bartlett, Sen. Perry and Sen. Courtney
Representatives:	Rep. Canavan, Rep. Pendelton, Rep. Lansley and Rep. Vaughan Absent: Rep. Boland and Rep. McLeod
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Wendy Cherubini, Sr. Analyst, OPEGA Scott Farwell, Analyst, OPEGA Jennifer Reichenbach, Principal Analyst, OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Edward Karass, State Controller Brenda Harvey, Commissioner, Department of Health and Human Services Russell Begin, Deputy Commissioner of Finance, Department of Health and Human Services

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

Sen. Mitchell turned the meeting over to Co-Chair Rep. Canavan.

SUMMARY OF SEPTEMBER 15, 2008 MEETING

The September 15, 2008 Meeting Summary was accepted as written. (Motion by Sen. Raye, second by Sen. Dow, PASSED 7-0).

COMMITTEE VOTE ON OPEGA FINAL REPORT

• **State Contracting for Professional Services: Procurement Process**

Director Ashcroft summarized OPEGA's Final Report on the State Contracting for Professional Services: Procurement Process presented at the September 15, 2008 GOC meeting.

- **Public Comment Period**

Director Ashcroft reported that OPEGA received a letter from Chip Gavin, Director, Bureau of General Services. His comments included:

- the Division of Purchases and Bureau of General Services is prepared and committed to the management actions that they described in the report in regard to OPEGA's recommendation of a comprehensive review for Cooperative Agreements;
- the Bureau is offering their assistance in doing a review of the Cooperative Agreements conducted.

Director Ashcroft said that although statute does require the Bureau to report on cooperative agreement activity, it is not clear in the statutes that it involved the kind of work OPEGA had intended in its report.

Chair Canavan asked if there were public comments on the above Report to be heard at this meeting. No one in attendance made comments on the Report.

- **Committee Work Session**

The Committee's discussion regarding the Report included the following:

- In Director Gavin's letter to the GOC, he stated that language in the Bureau of General Services Statute requires that his Bureau report to the Legislature on Cooperative Agreements. Director Ashcroft said the report in the past has been a statement regarding how many Cooperative Agreements there were and what the total dollar amount involved was.
- OPEGA's recommendation is that a more comprehensive audit type review be done. That the Legislature might direct the Controller, State Auditor or OPEGA to do a review in a comprehensive and detailed way and report back to the GOC its objective and independent view.
- Whether one entity may have multiple contracts with the State that totaled more than \$100,000 and whether that could be an inherent risk.
- Whether OPEGA is confident or satisfied that the scope and methods employed are sufficient for the GOC to have confidence in the status of contracting throughout State government? Director Ashcroft said within the defined scope of what OPEGA reviewed, she is confident that an appropriate methodology was used to provide the results in the Report.
- Clarification of the definition of professional services, does it include mental health or other services provided, and what was the scope OPEGA looked at for its Report? The Director responded that what OPEGA looked at did not include DHHS contracts for services. What is included are such services as: consultants, janitorial services, temporary clerical employee services, and medical services for the State prisons. The initial intent was to get at those professional services being procured to support upper level administration or management.
- The process if a contract is renewed or expanded. The Department of Purchases reviews renewed or expanded contracts, but it does not have any policies that would backup their judgment or address criteria to be used. They do not have any written policy or procedure.

- OPEGA suggests strengthening of existing controls to enhance accountability and transparency and a comprehensive review of Cooperative Agreements.

- Committee Vote

Motion: That the Government Oversight Committee endorse the State Contracting for Professional Services: Procurement Process Report. (Motion by Rep. Pendleton, second by Sen. Mitchell, PASSED, 7-0).

- Committee Work Session (con't)

Motion: That the Government Oversight Committee assign OPEGA to conduct a review of Cooperative Agreements. (Motion by Rep. Vaughan)

Before voting on the motion, Sen. Raye wanted to know what Committee action will be taken on the potential MaineCare and the Fund for Healthy Maine reviews.

Rep. Vaughan withdrew his motion.

The GOC discussed the legislative action recommendations in the report. Chair Canavan recognized Edward Karass, State Controller. Mr. Karass said if the Committee charged his office with doing the review, they would build upon the work they have already done and would be in a position to give an interim report of the work conducted to date in March, 2009. There is great interest by the Commissioner of the Department of Administration, Bureau of General Services and Controller's Office in making the process more effective and making sure that Cooperative Agreements truly fit the definition intended by statute. Mr. Karass said he could give the GOC an interim report in the Spring of 2009 and then in the Summer would be in a position to give a final report.

Motion: That the Government Oversight Committee accept State Controller Karass' offer to conduct a comprehensive review of Cooperative Agreements with the Controller providing an interim report to the GOC in March, 2009 and a full report in the Summer of 2009. (Motion Sen. Raye, second by Sen. Dow, PASSED, 7-0).

Chair Canavan asked if there was objection to taking items out of order. Hearing none, the Committee moved to **Unfinished Business, Briefing on MaineCare and DHHS Financial Transformation.**

UNFINISHED BUSINESS

• Briefing on MaineCare and DHHS Financial Transformation

Chair Canavan recognized Brenda Harvey, Commissioner, Department of Health and Human Services.

Commissioner Harvey gave an overview of the MaineCare Program.

The discussion and questions regarding the MaineCare Program included:

- mandatory and optional services;
- Medicaid expansion for parents greater than 150% of poverty level, parents of children who otherwise get medical coverage through DHHS;
- what is the definition in dollars of the Federal Poverty Level (FPL);
- what services are included in the Non-categorical waiver and the percentage funded by the federal government;
- how the HIV waiver program works because it is subject to co-pay and pay premiums;
- whether people served by waivers qualify for the traditional Medicaid;
- explanation of the Katie Beckett waiver;
- services included on the MaineCare optional list;

- what accounts for the higher administrative expenses for private insurance;
- why there is a 30% increase in traditional Medicaid population from 2002 to 2008;
- Medicaid program requirements are established by each state and how does that fit into the federal defined traditional Medicaid;
- traditional Medicaid being referred to as an entitlement program and also as an insurance program. If it is an insurance program, why does it not have to abide by all the same regulations and qualifications that a commercial insurance program does, including maintaining reserves and collecting premiums;
- enrollment level of 344,000 is 26% of the population of the State of Maine. This statistic is included when it is reported that Maine has a very high percentage of the population insured. Is it appropriate to include State benefits being delivered to over a quarter of its population in a measure of the population that is covered by insurance? Should that measure only include the percentage of the population covered by private insurance?

Commissioner Harvey introduced Russell Begin for DHHS' presentation of its financial transformation strategy project. Deputy Commissioner Begin described the process that consultant Deloitte and Touche had led DHHS through in evaluating its financial functions. As a result of that evaluation DHHS' financial functions were deemed to be between stages one and two on Deloitte's maturity matrix model. Most of DHHS' processes were largely undefined, there were no performance measures, processes were not documented, and there were inadequate organizational structure and support tools. The previous development that had occurred was inconsistent with regard to performance metrics, communications and support structures.

Deputy Commissioner Begin also described the improvements DHHS had been making in this situation. DHHS' focus over the past year has been with planning and budget management and financial analysis and reporting. For example, DHHS previously did not have preliminary cost allocations or a base-line contract allocation plan constructed for the FY 2008 budget, but work has been done over the past year and DHHS now has a contract cost allocation plan. He described the financial information that is now available on DHHS' intranet and how this information is used by Department staff. He also noted that communications between divisions and departments had improved as a result of the organizational realignment DHHS had done with regard to the finance functions.

As for comment on the OPEGA report "DHHS Contracting for Cost-Shared Non-MaineCare Human Services", Deputy Commissioner Begin noted that in OPEGA's Report on DHHS Contracting it said that there was annually \$2.6 million of overpayments to providers and he wanted to let the Committee know that approximately \$1.3 million of that had been paid prior to DHHS' final audit.

The GOC thanked Commissioner Harvey and Deputy Commissioner Begin for the information provided to the Committee.

NEW BUSINESS

The GOC discussed the following recommendations and request:

- **Children's Mental Health Project Direction Recommendation Statement**

OPEGA recommends continuing the review with a focus on determining how much of the funding for office based outpatient services for children is expended on the administrative costs of DHHS and providers versus direct delivery of services and on identifying the primary factors driving the administrative costs.

- **Durable Medical Equipment Project Direction Recommendation Statement**

Based on the GOC's interest in examining systems for identifying unnecessary MaineCare costs and appropriately controlling those deemed necessary, OPEGA recommends continuing this review with a focus on whether the State has effective systems to control and contain costs associated with durable medical equipment and medical supplies purchases through MaineCare, and if not, why not.

- **Request from the Health and Human Services Joint Standing Committee for an OPEGA review of Programs and Expenditures of the Fund for a Healthy Maine**

Sen. Raye referred GOC members to the letter from the Health and Human Services Joint Standing Committee requesting an OPEGA review of the Fund for a Healthy Maine that included:

- a broad analysis of the efficacy, efficiency and accountability of all current programs funded by and expenditures from the Fund, including examination of existing state and federal oversight and evaluation; and
- a comparison between Maine and other states in terms of the degree to which preventive health services are prioritized in the expenditure of funds from the master tobacco settlement agreement.

Motion: That the Government Oversight Committee directs OPEGA to go forward with the Children's Mental Health Services: Outpatient Services and Durable Medical Equipment and Medical Supplies Reviews as outlined in the recommendations. (Motion by Sen. Mitchell)

Further discussion continued on how many reviews OPEGA could undertake at this time.

Sen. Raye said the Legislature passed a law last session directing the Health and Human Services Committee to review the structure, accountability and level of legislative and independent oversight of the Fund for a Healthy Maine and the Human Services Committee voted to ask for an OPEGA review of the Fund. GOC discussion then focused on what OPEGA would review and Sen. Raye asked Director Ashcroft's input. Director Ashcroft suggested a starting point for OPEGA regarding the Fund for a Healthy Maine and said it would be similar to how OPEGA reviewed Economic Development Programs. There is a finite set of programs receiving Fund for Healthy Maine money and OPEGA's review could include who is running the program, who is responsible and accountable for it, what are the contracts that are let under the program, who are the people who are delivering the services, how are they being held accountable, what do they have in place for judging whether or not they are being effective, what kinds of measures do they already have or don't have, and do they have goals or not. OPEGA could give a review of the framework that is in place for those programs. Director Ashcroft said OPEGA would not be evaluating the effectiveness of a public health program, it would be asking what the program is doing, what the program has in place that it is using to judge that and what are those measurements.

Sen. Raye added a friendly amendment to Sen. Mitchell's motion.

Motion: That the Government Oversight Committee directs OPEGA to go forward with the Children's Mental Health Services: Outpatient Services and Durable Medical Equipment and Medical Supplies Reviews as outlined in the project direction recommendations and that the Government Oversight Committee directs OPEGA to temporarily suspend the Leased Office Space Review and begin the Review of Fund for Healthy Maine in accordance with the request from the Health and Human Services Joint Standing Committee. (Motion by Sen. Mitchell, second by Sen. Raye, PASSED, 7-0).

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

Sen. Raye moved to table this item until the next GOC meeting. All members were in favor of tabling.

REPORT FROM OPEGA DIRECTOR

- **Status of Audits in Progress**

Not discussed.

- **Update on OPEGA Goals, Objectives and Performance Measures**

Director Ashcroft said that OPEGA is making progress on updating its goals, objectives and performance measures.

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

Director Ashcroft said she is moving forward with discussions with other non-partisan offices in regard to how we can better coordinate. At the last meeting held, it was decided that some type of report will be put out on the activity and any recommendations reached as a group will be forwarded to the next GOC and Legislative Council.

Director Ashcroft referred members to the NCSL booklet on Ensuring the Public Trust 2008 – Program Policy Evaluation’s Role in Serving State Legislatures stating she thought it may be of interest to members.

SCHEDULE NEXT COMMITTEE MEETING

Not scheduled.

The Committee recognized Chair Canavan, Sen. Dow, and Rep. Lansley, three members of the Committee not returning next session.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12.53 p.m. (Motion by Rep. Lansley, unanimous).