



SEN. ROGER J. KATZ, CHAIR
REP. DAVID C. BURNS, CHAIR

MEMBERS:

SEN. MARGARET M. CRAVEN
SEN. EARLE L. MCCORMICK
SEN. NANCY B. SULLIVAN
SEN. DAVID TRAHAN
REP. DONALD E. PILON
REP. ANDREA M. BOLAND
REP. JOYCE A. FITZPATRICK
REP. LESLIE T. FOSSEL
REP. STEPHEN D. LOVEJOY

**MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE**

**MEETING SUMMARY
June 24, 2011**

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:33 a.m. in the Burton Cross Building.

ATTENDANCE

Senators:	Sen. Katz, Sen. Craven, Sen. McCormick, and Sen. Trahan Joining the meeting in progress: Sen. Sullivan
Representatives:	Rep. Burns, Rep. Pilon, Rep. Boland, Rep. Fossel, and Rep. Lovejoy Absent: Rep. Fitzpatrick
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Wendy Cherubini, Senior Analyst, OPEGA Matthew Kruk, Analyst, OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Peter Mills, Executive Director, Maine Turnpike Authority Peter Merfeld, Chief Operations Officer, Maine Turnpike Authority Daniel Wathen, Chair, Maine Turnpike Authority Board Joseph Ponte, Commissioner, Department of Correction Patricia Barnhart, Warden, Maine State Prison Officers LeClair and Malcolm, Maine State Prison

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

**SUMMARIES OF FEBRUARY 11, FEBRUARY 18 AND MARCH 4, 2011
MEETINGS**

The above listed Meeting Summaries were accepted as written by the Government Oversight Committee.

Chair Katz asked if there was objection to taking items out of order. Hearing none he moved to **Unfinished Business**.

UNFINISHED BUSINESS

- **Committee Vote on Maine Turnpike Authority Report**

Motion: That the Government Oversight Committee endorse OPEGA's Report on the Maine Turnpike Authority. (Motion by Rep. Fossel, second by Sen. Craven, passed by unanimous vote 11-0.)

- **Report Back From the Maine Turnpike Authority**

Chair Katz recognized Director Mills.

- **Status of all action items described in OPEGA's Report**

Attached to this Meeting Summary is MTA's June 24, 2011 Progress in Implementing OPEGA Recommendations Update.

Chairs Katz and Burns and Sen. Craven asked for an update on the status of HNTB and other engineering firms MTA was receiving bids from. Director Mills explained there are four areas of engineering services that MTA needs. First is the general engineering consultant's (GEC) job, the engineering firm that is designated by the bond resolutions to be the entity to take legal responsibility for reporting directly to the trustee and bond holders about whether MTA is maintaining the Turnpike properly and what the future maintenance should be. The GEC's job does not involve the most money paid to a firm for work done for MTA. There are only a few firms in the country that could respond competently to a request for qualifications for the GEC and HNTB is the dominating engineering firm in this region performing that kind of work for tolling authorities.

Director Mills said that the 4th tier of engineering services procured involve field inspection work and said there is a lot of good engineering talent in Maine and that MTA is looking to hire engineers for permanent positions in that capacity. That work was put out for bid and they found four engineering firms to do the work in supplement to MTA's own forces. The engineering services for project management and the design work for redoing bridges, etc. involves a fair amount of money and will be competitively bid. In the past, HNTB was performing all four tiers of MTA's engineering work.

Director Mills said because the general engineering contract will take the longest to draft and get out to bid, a contract with HNTB to perform that work for the next 2 ½ years has been signed. Well before that contract expires, MTA will go out to a competitive bid process to determine if HNTB should continue with the work and whether there are competing contracting firms.

Director Ashcroft added that as MTA makes the decision to get more firms involved in the bridge designs, they are making a concerted effort to having four firms working on different projects and over time HNTB will start to lose the competitive advantage it now has.

Chair Katz said in prior years HNTB did the consulting work and then was able to participate in the other three levels of work. That appears to be a significant conflict and noted that if HNTB was still doing the consultant engineering work there was a potential conflict because the more work they recommend be done, the more work they have an opportunity to bid on. He said perhaps the easiest thing for MTA to do is to say there is going to be a wall between the GEC and the other three scopes of work and the GEC will not be able to participate in the other work. Mr. Merfeld said the GEC job is the smallest of the four tiers of work being \$500,000 a year. That seems like a lot of money, but to a nationwide consultant, no one will want to be the GEC if it now excludes them from bidding on the other \$9 to \$11 million work the Turnpike has. He researched whether other turnpike authorities had policies on whether the GEC could bid on other work and said the policies varied. The program manager's role was the one he felt was much more of a conflict because they are helping to develop the scope of

a project and that scope is used to send out an RFQ to hire a designer. If they are helping to develop the scope, the conflict now is they can compete on the work and he has a concern with that, noting it is also where the Feds would have a concern for a DOT project. That is the area MTA will try to work out over the next two years and is developing a program that would break the GEC's role to become a staff role.

Rep. Boland asked if MTA was moving too far the other way in order to address the issues raised rather than the quality of the work that has been done for them in the past by the GEC. Mr. Merfeld does not believe MTA said there is a conflict of interest, but rather a perception of conflict of interest. Most think that if some can write their own ticket and then do all the work, there needs to be a process in between to determine that the work is necessary and to actually assign that work out. All MTA has done is create the step between the GEC and the work being done through a competitive process. It is now State law that MTA has to select vendors and consultants through a competitive process.

Chair Burns noted that Mr. Merfeld said several times "there was only a perception" and believes that is what got the GOC and MTA to where they are now. He does not see how there could be anything else but a conflict of interest when one entity has all the information, does all the specing and then does all the work. That is more than a perception, it is reality.

Director Mills summarized the history of MTA's contribution to the MaineDOT and said he had informed the Transportation Committee of the process and participation MTA has had with the MaineDOT over the previous years. MTA suggested to the Transportation Committee that MTA's and MaineDOT's joint projects be formalized and to set a goal, or amount, of what MTA should contribute each year, with the condition that MTA gets to decide, in partnership with MaineDOT, what the projects will be. Director Mills suggested that every January, as part of MTA's budget presentation to the Transportation Committee, they provide an up-to-date schedule of what MTA has done and intends to do the coming years jointly with MaineDOT.

Chair Katz asked if MTA would share the language regarding criteria and processes for sponsorships and donations and approval and documentation requirements for travel and meal expenses with OPEGA because of the work the GOC will be doing over the interim. Director Mills will forward that information to Director Ashcroft.

- General outcome from MTA's Forensic Audit

Chair Katz asked Director Mills the status of MTA's forensic audit. The Director said the audit is complete and the findings have been turned over to the Attorney General's Office to supplement the information given to them by OPEGA. The auditors were in dialogue with OPEGA during the process. MTA went back earlier in time and found that the pattern in regard to gift cards predated from where OPEGA started its review, finding it went back to the 90's, but that OPEGA found the largest component. Chair Katz asked if there was any reason why the forensic audit would not be available to the GOC. Director Mills was advised by the AG's Office that the audit is now a component of their investigation and referred to their statute that says when a state agency, or state quasi agency, has material that is part of a criminal investigation by the AG's Office, they can ask that the information not be turned over and made public.

Following the GOC's discussion, Chair Katz said the Committee thinks MTA's forensic audit is public information, and if it can be released to the public, it should be. Director Mills said MTA's Board agrees with that sentiment and will explore whether there are legal impediments to doing that. The GOC Chairs will make a formal request to receive a copy of MTA's forensic audit, and will find out if there are reasons why it should not be public.

- Any other actions and events completed, in progress or planned as a result of OPEGA's Report, GOC's subsequent inquiry and any bills passed by the Legislature

Rep. Pilon asked what changes MTA had implemented regarding their Board, noting previously that the MTA Board had been reviewing or authorizing expenses. Director Mills said the previous process had the appearance

of thoroughness without any substance behind it. MTA will have an external auditor reviewing all expenses and will be the eyes and ears of the Board. The internal auditor now also has to report to the Transportation Committee once a quarter on any adverse finding and once a year summarizing those findings. This process bypasses the Executive Director and everybody in between.

Chair Katz asked if any changes have been made in senior management staff at MTA. Director Mills stated that Roger Malar and he are content with what has been done, but could not comment because of personnel laws.

Chair Katz asked if there had been any MTA Board resignations. Director Mills said Mr. Valentino retired earlier for health reasons and was replaced by Daniel Wathen, who was appointed Chair. The rest of the Board composition is the same.

Chair Katz recognized Daniel Wathen. Mr. Wathen acknowledged the help he has received from Director Mills, Mr. Malar and Mr. Merfeld. He believes MTA is now on the right path, but still has some difficult issues to deal with. Rep. Pilon asked if Director Ashcroft or Director Mills could provide the GOC with a list of the Board members and the terms for each.

The GOC thanked MTA staff and Mr. Wathen for attending the meeting and answering questions.

- **Report Back From the Department of Corrections on Maine State Prison Management Issues**

- **Update on MDOC's Strategic Plan to Address Culture and Process Issues**
- **Any other actions and events taken, in progress or planned to address OPEGA's Report**

Chair Katz welcomed Warden Barnhart and Commissioner Ponte. The Warden summarized the Maine State Prison Management Issues Strategic Action Plan.

Sen. Craven asked Officer LeClair, who works at the Maine State Prison, if he felt the culture changed for the better. He said he has not noticed a change.

The GOC's statements or issues regarding DOC's Survey of MSP employees and the responses received included:

- the importance of education for the prisoners;
- the ratio of women responding compared to men and if the survey results are different for women than those of the men;
- has the longevity been compared in rating the impression because the figures may look good overall, but the results will be different depending on the length of their employment. Looking at the results that way, you may be able to determine that there is a problem;
- that the survey be sent out again after, for example, six months to ascertain if the results have changed;
- areas of concern from the survey include: staff treatment-all negative responses; staffing-all negative comments; administration-all negative comments; and benefits, pay and promotion-a few positive and the rest negative. It was asked what steps DOC would take in addressing the problems.

Chair Katz asked Officer LeClair his opinion of what the problems are at the Prison in terms of the issues identified in OPEGA's Report. He said some of those issues include: intimidation and retaliation against individuals attempting to raise concerns or behavior that staff perceive as intimidation or retaliation; behavior that staff or prisoners experience or perceive as harassment or discrimination in various forms; a distrust or lack of respect for management as a whole or certain individuals within the chain of command; and reluctance or actual failure to report situations that are personally concerning to staff that appear unethical or otherwise expose the State to unnecessary risks and liabilities. He asked Officer LeClair, from his perspective, what are the problems? Officer LeClair said although he liked the 12 hour shifts, many of the others did not. He has not had a problem with other staff and feels that if he needs to approach any of his superiors he can, although he

cannot comment for anyone else. He has heard others say they have had problems and that morale has gone down quit a bit at the prison which he contributed to the amount of hours employees who have families have to work.

Officer Malcolm gave his opinion to the previously asked questions. He said he has been employed at the Maine State Prison for 2 ½ years, so being fairly new, he has not seen a lot of changes. He also talked about the number of hours staff have to work and about the mandated hours. The Prison is open 24 hours a day, 7 days a week and if someone calls out on the officer's shift somebody is mandated to stay for an additional three hours. He believes that is where the morale issues comes in. He also felt like he can go to any of his supervisors if he has a problem.

Sen. Trahan noted that Officers LeClair and Malcolm are fairly new employees at the Prison and although the information provided helpful, they should not be seen as a reflection of the entire institution.

Chair Burns asked the Officers what the attitude was regarding the Special Management Unit (SMU) changes and what kind of feedback are they hearing. He explained that management has made several changes in the way the SMU is operated and many of the inmates that were previously kept there have been released. He asked if it was still an issue because he had been told it was. Officer Malcolm worked in the SMU for over a year and has seen a lot of change in the last few months so there is a lot of confusion for the staff. He was not saying it was not going in the right direction, but that the communication with the support staff needs to improve.

Sen. McCormick said after reviewing the survey he was more pleased than displeased because some of the previous problems are not being seen now is a testament to the fact there have been positive changes.

The GOC members thanked DOC's staff for the information they provided.

Chair Katz asked Director Ashcroft where the Committee was in terms of the follow-up process. Director Ashcroft believes the GOC was interested in keeping tabs on the issues raised in OPEGA's Report until they had assured themselves there had been substantial change. The Commissioner and the Warden both said they did not take issue with any of the items raised in OPEGA's Report and that the Officers who spoke at today's GOC meeting may not have experienced some of the issues talked about. In the materials and research that OPEGA reviewed during its review process, these were reoccurring themes through all the work that Consultant Carol Zonis had done. OPEGA looked through all the materials that had been generated from her effort. The Director said the issues were real, and up until this point not a lot of action has been taken on them so she is hesitant to say she is completely comfortable the Committee has seen this through. DOC has made an excellent start with their main focuses being to open up avenues for staff to get directly to the Commissioner, Warden, or any management staff. There is a huge effort around communication, but she is not sure all the processes are yet in place that the GOC had hoped to see changes in and would suggest that the Committee continue to get report backs about what those results may be until they see that the structure is supporting a culture change. Sen. Trahan agreed, and said while the two Officers' testimony was very helpful, he does not believe you would hear the same from an employee that has worked at the Prison for 15 to 25 years. He and Chair Burns think the GOC and the Criminal Justice Committee has to continue to be diligent. What the Commissioner and staff are doing are tremendous and positive changes, but he would want the GOC to be kept informed.

The GOC agreed that DOC would report back at the Committee's October meeting.

Sen. McCormick noted that Rep. Plummer, Chair of the Criminal Justice Committee, was at the meeting and Chair Katz asked if he had any comments or questions.

Rep. Plummer said the Criminal Justice Committee has dealt with and will continue to deal with the issues discussed today, but listening to the GOC's discussion gave him a totally new perspective. Some of the changes that have occurred have been difficult and, as was pointed out earlier, more difficult for people who have been in the system longer. He said the best way to cope with change is to help create it and the more they can involve those who work at DOC the better. He appreciated OPEGA's Review and the Criminal Justice Committee is

looking forward to working with the GOC and OPEGA in making the necessary improvements. GOC members thanked Rep. Plummer for being at the meeting and looked forward to working with the Criminal Justice Committee.

NEW BUSINESS

- **Request for an OPEGA Review**

- **Highway Fund Eligibility of the Maine State Ferry Service. Request From the Transportation Committee**

Director Ashcroft referred the GOC to the letter from the Chairs of the Transportation Committee asking for the GOC's consideration of an OPEGA review regarding the Maine State Ferry Service and the support that it receives from the Highway Fund. OPEGA has not done any initial research on the request because the letter was straight forward in terms of what the Transportation Committee thought would be valuable. OPEGA did a similar review for the Use of Highway Funds for the Maine State Police so the Director thinks the Transportation Committee is asking for an analysis of whether all of the funds that go to the Ferry Service meet the test of what the Constitution lays out as the allowable use of the Funds so it is a matter of looking at the expenses of the Ferry Service and determining which of those expenses can be shown to be part of the State's Highway System.

The GOC asked that Director Ashcroft draft a letter from the Chairs to the Attorney General asking for an updated opinion regarding the use of Highway Funds by the Maine State Ferry Service.

- **Discussion on Continuing Project on BETR, BETE and TIF**

Director Ashcroft said much of the data for BETE and TIF reside in the municipalities and are not collected in a detailed way at the State level so a lot of work would be required to gather that information. If the GOC wanted to go forward with this topic Director Ashcroft reminded the members that OPEGA is currently working on Child Development Services, Maine Green Energy Alliance and is finishing up Health Care Services in the Correctional System and Cost Per Prisoner. She does not think OPEGA currently has the resources to work on any more reviews and have them completed by early next year. If the BETR, BETE and TIF is a review the GOC wanted soon, they would have to prioritize the reviews OPEGA is currently working on.

Sen. Trahan said the Taxation Committee, in the past session, addressed his greatest concern of the accusations that some companies receiving a BETR tax break were storing equipment, not using it, and getting their BETR reimbursement. The Taxation Committee addressed that issue by implementing a timeline of how long equipment can be stored before the company would lose their benefit. He is still interested in TIF.

Rep. Pilon asked Director Ashcroft if the Department of Economic and Community Development (DECD) could provide a list of the municipalities or towns that are providing companies TIFs. The Director believes DECD has a list of the towns they have approved and receives information from companies of how much money and what they get TIF on. OPEGA would have to go the municipal level to get all the data and records. Companies may be getting BETR reimbursements on different equipment than what they are getting the TIF or BETE on and it would require OPEGA to match everything up to determine if there is an overlap. She understands that DECD prepares a report for the Legislature that is supposed to address that kind of overlap. The Director has not reviewed the most recent report to see what information is included, but the way the review questions are structured would require OPEGA to either gather data, or try to use DECD's reporting mechanism to draft a survey for municipalities. Under Economic Development Statutes they are suppose to be reporting certain information and although OPEGA could review what they are supposed to report and what they are reporting, that information would only be self-reported information. Rep. Pilon believes DECD would be able to provide basic information and suggested getting the identity of the towns and some basic information from DECD. That would be a starting point. Chair Katz said the problem may be that the State is not requiring enough reporting and not able to get the information needed to do an analysis.

Rep. Lovejoy said it is a telling scenario that no one knows what is going on with the programs for the amount of money involved, and asked the Director if DECD told her how many communities have been approved for TIFS. Director Ashcroft said the GOC has observed the primary issue of data not being readily available to the Legislature. OPEGA could, as opposed to doing a full review, take what has been learned already, supplement it with additional research, issue an information brief or report that led to the recommendation that the State collects the data, who should be maintaining it and what form it should be maintained so that at some point in the future, the GOC could ask OPEGA to look at the statutes and make recommendations.

Mr. Kruk responded to the question of whether DECD had the information on how many towns have TIFs. He said from 1985 to the present all of the applications that were approved, whether the town went through with it or not, DECD could not tell him. He could reduce it down to the lowest number of municipalities to come up with an answer, but it was a lot of work to do BETR and TIFS in a similar way. Rep. Lovejoy knew of one business getting back over a million dollars more than they pay in because of the ways BETE, BETR and TIFs have been layered. If the State is sending them a check for that amount of money, that is a problem.

Chair Katz said it appears that the State has a variety of incentive programs that are well-meaning and designed to incent investment and growth, but does not have the information needed to know if the programs are working. The first step may be to develop a system to be able to get that information.

Sen. Craven did not understand why Maine Revenue Services (MRS) did not have the information available. Mr. Kruk gave the example of the City of Augusta sending in their aggregate total for the number of exemptions they have. MRS would be able to say Augusta had "X" number of exemptions for this amount, but if the GOC wanted to take it to the company level, OPEGA would have to take it upon themselves to get that information. The reason MRS is not tracking it is because it is an exemption and tax is not being paid so not reimbursed.

Chair Katz said if the State is giving a tax break to a business it would not be too much to ask that business to do some sort of reporting to the State. Mr. Kruk said he spoke with Commissioner Gervais and the Commissioner said there had been a mechanism in place, but through an error it lost its funding. It had put the onus on the companies to furnish what they were receiving from incentive programs and then DECD would compile an annual report from the information received. He was referring to the Economic Development Program Study that was undertaken by DECD as a result of OPEGA's initial report. Everybody was less enamored with DECD's study when results were seen. Part of that was to be an annual effort through which DECD was supposed to be surveying companies and then reporting that data back. DECD has tried to set up a funding mechanism to fund that study every year, but in the statute, because of a decimal error, they did not have any funding. Director Ashcroft believes the bill to try to correct that with the AFA Committee last session because there were no results so no momentum to try to fund it.

Director Ashcroft said it may be helpful to see where the reporting possibilities currently are. Rep. Lovejoy is bothered by a particular situation, and MRS did tell OPEGA they know it is entirely possible for companies to be getting both BETR and TIF. Director Ashcroft was looking for direction of what OPEGA could add that would give the Legislature the information needed to change the situation if they don't like it.

Sen. Trahan said that would be a major tax reform question and thinks during the interim there will be a group of financial experts brought in to address that and other tax reform questions. It has come up in the discussions regarding tax reform that OPEGA could be a tool and the Taxation Committee would work with the GOC if more detailed information is needed.

Director Ashcroft said OPEGA's research for their Economic Development Program Report had identified tax incentive programs and that there was an issue of there being no information on the benefits each was receiving. She understands that is still a concern and suggested that OPEGA determine what information is available and what information the GOC would find helpful.

Chair Burns asked if Director Ashcroft could put the information in context for the GOC and list what questions should be answered. GOC members asked for copies of OPEGA's Economic Development Report and other relevant reports so they could review them prior to their next meeting.

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

- **Maine Green Energy Alliance**

OPEGA has given this review priority and anticipates having the fieldwork done within the next 2 weeks. The goal is to have a final report ready to release no later than mid-August.

- **Health Care Services in the Correctional System**

This topic will receive priority to get the Report out to the GOC.

- **Child Develop Services**

The preliminary research work is complete and the GOC has approved the scope questions. OPEGA has its work plan drafted, but that work had been suspended when the GOC tasked OPEGA with Maine Green Energy Alliance.

- **Cost Per Prisoner**

OPEGA will proceed on this review as resources permit.

- **Governor's Training Initiative**

Motion: That the Government Oversight Committee moves to remove the Governor's Training Initiative topic off OPEGA's Work Plan. (Motion by Rep. Fossel, second by Sen. Sullivan, passed, unanimous vote).

Director Ashcroft reported that the legislation for the Fund for Healthy Maine Study the GOC had initiated has worked its way through the Legislature and approved. The Study had a fiscal note of \$6,900 so was put on the Legislative Council Study Table. There were five GOC members at the Legislative Council meeting for the Study Table. Because the Council did not have the money to fund the Study it was asked if the money for the study might come from OPEGA's budget. The five GOC members discussed that possibility and decided because of the importance of the study to fund it through OPEGA's budget. Director Ashcroft did not object to funding the Study, but advised the GOC to make sure it does not set a precedent for OPEGA having to fund every study recommended by the GOC.

SCHEDULE NEXT COMMITTEE MEETING

Committee members will be polled to determine what days are best for the majority of the members to meet during the interim.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 1:32 p.m. (Motion by Sen. Sullivan, second Rep. Fossel, unanimous).



MTA Progress in Implementing OPEGA Recommendations

1. Clarify expectations for Transfers to Maine DOT

PL 302 (LD 1538), §4 removed the operating surplus provision and replaced it with a requirement for MTA to allocate at least 5% of its operating revenue for agreed upon DOT projects. Attached is an estimate of projected costs.

2. Redefine MTA's Relationship with its Contracted Engineering Firm

MTA will procure all engineering services on a competitive basis by 2013 as described in the attached memo from Peter Merfeld which deals with all four basic types of MTA engineering contracts. In the meantime, MTA has created new interim contracts with HNTB based on Maine DOT models.

3. Improve Contract Management for Services

A new contract management system based on the Maine DOT model has been adopted for engineering services. The Board will now approve all engineering service contracts and receive monthly updates on progress and money spent under each. Staff has drafted a set of general conditions to use for service procurement. A contract management database is being developed to improve documentation.

4. Strengthen Controls Over Sole Sourcing

PL 302, §12 requires contracts to be awarded competitively. The MTA's Executive Director may approve sole-source awards for contracts under \$25,000. For contracts over \$25,000, the MTA's board must make a written finding that the contract meets one of the statutory exemptions for it to be awarded on a sole-source basis.

5. Provide All Operating Expenses as Part of Legislature's Review and Approval of Budget

PL 302, §3 requires MTA to provide the Transportation Committee a detailed budget of expenditures from the MTA's reserve maintenance fund, including cross references to show the total of similar expenses that are paid from both the revenue and reserve maintenance funds. Attached is a sample of what was recently provided to the Committee.

6. Formalize Criteria and Processes for Sponsorships and Donations

On March 21, the MTA Board voted to cease making donations to all outside organizations pending a review. Memberships and sponsorships that were not considered critical to the MTA's mission were eliminated and others were reduced. A budget was established that reduced these expenses from \$140,000 to \$58,000 a year. This budget will be reviewed by the Board on an annual basis going forward.

7. Adhere to Approval and Documentation Requirements for Travel and Meal Expenses.

- In March, the MTA Board ordered a forensic audit of certain expenditures from 2003 to February 2011 to identify questionable expenses. Results have been shared with proper authorities.
- Memoranda were sent to all staff specifying the documentation required for reimbursement and clarifying that the MTA's travel and meal policy applies to credit card use.
- The Board called in all 51 corporate credit cards issued to employees, reviewed them, and left 15 cards active, largely for the procurement of goods and services critical for day-to-day operations.
- Effective March 21, all overnight travel requires pre-approval by the Executive Director.
- PL 302, §9 requires that, "The secretary and treasurer are responsible in their respective capacities directly to the board and may be relieved of their duties only by the board." This confirms a board resolution first made effective on March 21.
- The MTA is preparing an RFP to retain an auditor who will regularly ensure compliance with MTA policies and will report quarterly results to the Board and to the Transportation Committee as now required by §9 of PL 302.

Lobbying. On March 28, the MTA Board cancelled its contracts with outside lobbyists. Contact with policymakers has since been the function of MTA staff.

Peter Mills
June 24, 2011

The Maine Turnpike Authority
 LD 1538 MTA Omnibus
 MTA - MDOT Cooperative Projects

	Actual		Projected				
	2009	2010	2011	2012	2013	2014	2015
Operating Revenues MTA (Assumes a 25% toll increase in 2013)	105,694,211	107,831,615	109,055,575	110,984,004	136,172,290	140,942,961	143,424,328
5 % of MTA Operating Revenues - for Joint MaineDOT MTA Projects	5,284,711	5,391,581	5,452,779	5,549,200	6,808,615	7,047,148	7,171,216
Joint Projects (Estimated)							
Alternative Transportation Initiatives							
Kids in Transportation	95,506	61,308	85,000	85,000	85,000	85,000	85,000
Go Maine	48,378	119,809	72,000	72,000	72,000	72,000	72,000
Shuttle Bus (ZOOM)	141,017	96,117	102,000	102,000	102,000	102,000	102,000
Park & Ride lots	8,702					400,000	300,000
Park & Ride lots maintenance(Lighting, Plowing, Mowing, Signing, Striping, ETC)							
Corridor Studies							
York County connector (Approx. 20% of study cost)		2,660	250,000				
Gorham connector (Approx. 80% of study cost)	591,792	554,279	220,000	500,000			
Trail Bridge - Kennebunk Trail Design & Build	229,115	543,233	1,296,654				
Miscellaneous items	31,000		100,000	100,000	100,000	100,000	100,000
Interchanges & Intersection Improvements							
Auburn Interchange (Route 100)	60,053	46,403		500,000			
Lewiston Interchange		171,627	3,000,000	5,000,000	8,000,000	5,000,000	
Maine DOT - MTA Subordinated Debt Service (ends in 2018)	2,465,663	2,466,813	2,467,813	2,463,250	2,465,750	2,463,750	2,467,250
MTA Commitment to the Kittery Bridge Commission Projects (90 Million /30 years)		67,282			3,000,000	3,000,000	3,000,000
Joint Projects Total Costs	3,671,227	4,129,531	7,593,467	8,822,250	13,824,750	11,222,750	6,126,250

Status Report to OPEGA

June 24, 2011

by Peter S. Merfeld, P.E., Chief Operations Officer

RE: Hiring and managing Engineering Consultants

Summary: As agreed to in OPEGA's recommendations 2 & 3, in January 2011 MTA developed a draft policy to separate HNTB's four roles as: General Engineering Consultant (GEC); program manager; project design engineer; and construction inspector. Construction inspection needs for the next four years were solicited through a competitive RFP process and four separate firms have been selected for contracts.

Going forward, all other engineering consulting services will transition over a two-year time period to 100% competitive selection with some work moving to in-house staff. (Hiring process for initial phase is nearly complete and cost/benefit analysis recommended by OPEGA for additional hires will be conducted by 2012). The GEC contract was approved by MTA Board on June 23.

1. **Internal Hires:** Three new engineering positions and one additional engineering position to replace a vacant position were created, posted and advertised.
 - a. **New Engineering Program Manager** will administer the process to hire and manage engineering consultants. *Kristi Van Ooyen, P.E., started in this position on April 19.*
 - b. Two **Resident Engineers** to replace the need to hire consultant Resident Engineers to monitor construction projects in the field. *Joseph Ryan Leavitt, P.E. started April 19. Second position not filled yet; anticipate filling this summer.*
 - c. **Project Engineer for Maintenance & Operations.** This position will build asset management systems, manage maintenance projects and monitor the performance measures mentioned in OPEGA recommendation #9. *Brian Taddeo, P.E. started May 23.*
2. **Consultant Hiring Process:**
 - a. *Request for Proposal* for filling up to 11 consultant construction inspectors/engineers positions to supplement MTA's staff* was sent out in mid February to 12 consultant firms previously pre-qualified by MaineDOT. We have selected four firms for a contract: S.W. Cole, Louis Berger Group, Inc., Parsons Brinkerhoff, and HNTB. **Current MTA staff consists of four inspectors/engineers including new Resident Engineer identified above.*
 - b. *Qualification statements* have been received by MTA from nine firms (sent to 17) to plan, design and manage the proposed renovations at the MTA's Gray Maintenance facility. We anticipate selecting a consultant and getting under contract in July.
 - c. A draft process for determining needs of engineering consultants and selecting/hiring engineering consultants going forward is being reviewed by the Board.
 - d. The contract form, the Engineering Consultant General Conditions, and a form to give notice to proceed (task/project order) have all been finalized by staff and were provided in the RFP/RFQ processes sent out in February. Updates and edits to these documents are being made and reviewed with OPEGA staff as well as Maine DOT and will be basis for new

contracts with HNTB and any future RFP/RFQ processes for engineering consultants. They include all of the language requested by OPEGA staff as part of their review.

3. HNTB interim contracts:

- a. Interim General Engineering Consultant contract: Scope of work and Contract form finalized. Anticipate a term through December 31, 2013. Would be a competitive process in summer 2013 to select firm to serve in this capacity beyond 2013.
- b. Interim Consultant Program Manager contract: Scope currently being defined. Expect two-year term, will review in July. Duties under this contract will phase out as role is redistributed in-house or competitively selected by 2013.
- c. Interim Project Engineering Services contract for existing projects already under way. Expect final written scope of work and fee estimates for all active work by July 2011. Two-year term, but will phase out as all new design work is competitively selected.

Present Goals:

2011 - 25% of all engineering work to be done by non-HNTB forces (Assumes 15% sub-consultant to HNTB).

Additional material testing, underwater bridge inspectors, bridge design, highway design, paving management consultants will be selected competitively for selected projects in 2011 and 2012.

2012 - 35% of all engineering work will be done by non-HNTB forces (some as a sub to HNTB);

50% of all new engineering work being done in 2012 will be performed by a consultant who was selected through a competitive process (with exception of work done as the GEC or Program Manager under interim contractsⁱ).

2013 - 75% of all engineering work will be performed by a consultant who was selected through a competitive process.

100% of all new engineering work being done in 2013 will be performed by a consultant who was selected through a competitive process.ⁱ

2014 - **100% of all engineering work being done in 2014 will be performed by a consultant selected through a competitive process.** *Depending on the workload and discipline required, MTA would manage the qualification-based selection process to assure more than one consultant is under contract at any one time in that discipline to assign work as needed while not unfairly favoring one consultant.*

ⁱ Interim GEC and Program Manager contract are currently under review by Board, thus projects assigned to these two contracts might be the exception in 2011-2013. Total value of these two contracts is less than 20% of entire engineering program.

The Maine Turnpike Authority
Budget 2012 - Multi fund View

By Expense Character

Account	Description	Notes	Actual 2010						Budget 2012		
			Revenue Fund		Reserve Maintenance Fund		Total Revenue & Reserve Maint. Funds		Revenue Fund	Reserve Maintenance Fund	Total Revenue & Reserve Maint. Funds
			Actual	Budget	Actual	Budget	Actual	Budget			
70001	SALARIES		20,062,190	22,779,354	2,210,089	3,293,257	22,272,279	26,072,611	22,125,087	3,387,115	25,512,202
70020	TRAVEL & SUBSISTENCE		89,652	104,200	54,397	62,000	144,048	166,200	102,220	62,000	164,220
70021	FEES - SPECIALIZED EMP. TRAINING		33,894	55,152	55,699	85,000	89,593	140,152	56,318	85,000	141,318
70022	COMPENSATION OF AUTHORITY MEMBERS		7,645	6,000	0	0	7,645	6,000	6,000	0	6,000
70023	EXPENSE OF AUTHORITY MEMBERS		11,766	10,000	0	0	11,766	10,000	10,000	0	10,000
70024	FUEL FOR HEATING		302,675	610,000	0	0	302,675	610,000	381,000	0	381,000
70025	ELECTRICITY		536,842	677,087	3,220	5,400	540,063	682,487	610,339	5,500	615,839
70026	TELEPHONE		371,323	372,133	248,755	302,145	620,078	674,278	362,303	275,000	637,303
70027	WATER		45,145	36,040	0	500	45,145	36,540	49,860	500	50,360
70028	PROPANE		125	600	0	0	125	600	400	0	400
70029	POSTAGE		3,732	60,000	301,169	325,000	304,901	385,000	60,000	325,000	385,000
70030	MISCELLANEOUS FEES		988	5,850	1,350	0	2,338	5,850	5,550	0	5,550
70031	MEDICAL SERVICES		31,543	38,020	0	0	31,543	38,020	47,190	0	47,190
70032	EXPRESS FREIGHT & DELIVERY CHARGES		5,145	5,100	2,717	0	7,862	5,100	5,100	0	5,100
70033	PHOTOGRAPHIC EXPENSES		93	500	21,920	35,500	22,012	36,000	500	35,700	36,200
70034	BANKING EXPENSE & TRANSPORT		7,488	8,000	0	0	7,488	8,000	8,000	0	8,000
70036	PRINTING		26,447	33,500	173,948	205,300	200,396	238,800	35,500	200,000	235,500
70037	OFFICE SUPPLIES		48,576	40,361	4,176	0	52,752	40,361	40,200	0	40,200
70038	ENGINEERING EQUIPMENT		4,035	4,000	1,511	0	5,546	4,000	5,000	0	5,000
70039	JANITORIAL SUPPLIES		45,341	63,450	0	0	45,341	63,450	64,090	0	64,090
70040	OFFICE MACHINES,PUR,RENT,MAINT,SUP		1,074	7,000	359,395	450,000	360,468	457,000	10,000	450,000	460,000
70042	OFFICE EQUIPMENT		2,317	7,500	2,113	0	4,429	7,500	8,000	0	8,000
70043	INFORMATIONAL SERVICES		2,434	3,500	106,191	120,000	108,626	123,500	3,500	120,000	123,500
70044	EMPLOYEE RECOG., PUBLIC MEETINGS		19,033	20,000	15,585	21,000	34,618	41,000	20,000	21,000	41,000
70045	ORGANIZATION FEES & DUES		35,800	47,020	105,845	95,000	141,645	142,020	45,170	95,000	140,170
70046	AUDITING FEES		38,221	40,000	0	0	38,221	40,000	40,000	0	40,000
70047	AUDITING EXPENSE		0	2,500	0	0	0	2,500	2,500	0	2,500
70048	TRUSTEE'S FEES		285,905	356,400	0	0	285,905	356,400	180,000	0	180,000
70051	EMPLOYEE RECOGNITION PROGRAM		10,885	7,500	0	0	10,885	7,500	7,500	0	7,500
70053	AUTHORITY CONTRIBUTIONS TO MSRS		1,148,630	1,564,074	96,462	98,500	1,245,091	1,662,574	1,430,105	98,500	1,528,605
70055	WORKERS COMPENSATION CLAIMS /ADMIN		0	0	815,714	829,335	815,714	829,335	0	948,860	948,860
70056	AUTHORITY CONT. TO MEDICARE		238,374	249,638	(17,910)	29,800	220,464	279,438	249,108	30,000	279,108
70057	PREMIUMS FOR GROUP HOSPITAL INS		4,710,556	5,593,273	1,377,656	1,450,000	6,088,212	7,043,273	5,711,396	1,485,000	7,196,396
70058	GROUP LIFE INSURANCE		160,662	198,976	24,393	26,000	185,055	224,976	195,728	26,500	222,228
70059	FIDELITY BONDS		5,230	2,500	0	0	5,230	2,500	4,350	0	4,350
70060	PRE 1990 WC CLAIMS EXPENSES		0	0	18,081	0	18,081	0	0	0	0
70064	DENTAL INSURANCE BENEFITS		118,159	136,613	4,163	5,500	122,322	142,113	130,045	12,701	142,746
70066	COMPREHENSIVE GEN LIAB		0	0	507,910	500,000	507,910	500,000	0	500,000	500,000
70070	INDEMNFTN INSR-AUTH MEM		0	0	250,906	175,000	250,906	175,000	0	275,000	275,000
70071	UNEMPLOYMENT COMPENSATION PAYMENTS		19,893	30,000	0	0	19,893	30,000	30,000	0	30,000
70073	CONSULTING ENGINEERS FEES		0	35,000	3,024,175	3,965,000	3,024,175	4,000,000	35,000	4,020,105	4,055,105
70074	CONSULTING ENGINEERS EXPENSE		0	5,000	17,518	25,000	17,518	30,000	5,000	25,000	30,000
70075	CONSULTING FEES		0	25,000	0	0	0	25,000	25,000	0	25,000
70076	CONSULTING EXPENSE		1,500	2,500	0	0	1,500	2,500	2,500	0	2,500
70077	CONTRACTUAL SERVICES	1.)	5,481,883	5,114,000	9,880,375	10,250,511	15,362,258	15,364,511	5,986,246	9,150,000	15,136,246
70080	REGULAR COUNSEL FEES		108,945	110,000	425,658	365,145	534,603	475,145	110,000	522,872	632,872
70081	REGULAR COUNSEL EXPENSE		10,057	11,000	18,809	0	28,866	11,000	11,000	0	11,000
70082	SPECIAL COUNSEL FEES		15,851	16,000	0	0	15,851	16,000	16,000	0	16,000
70083	SPECIAL COUNSEL EXPENSE		49	1,200	0	0	49	1,200	1,200	0	1,200

Mainebiz

FOCUS YORK COUNTY

COMMENTARY

Welcome mat

Spiff up the York County gateway through improved bridges, toll plazas and rest areas

BY PETER MILLS

Interim executive director, Maine Turnpike Authority

The Turnpike is the artery that keeps Maine's economic lifeblood pumping. Eighty-five percent of all products entering and leaving the state do so via this single 109-mile road.

It is also the welcome mat for most of our visitors en route to attractions ranging from Wells Beach and Mt. Blue State Park

to the Allagash Wilderness Waterway and Aroostook County's Nordic ski trails.

Despite its relatively short length compared to the web of other roads and bridges crisscrossing our huge state, the Turnpike carries 9% of all of Maine's road traffic, including many 100,000-pound trucks. The pike is built to handle it.

Because the road is supported entirely by tolls, all of the fuel taxes generated by Turnpike drivers — about \$21 million annually — pay for Maine's other trans-

portation needs. In addition, the Turnpike regularly contributes toll money to projects off the Turnpike's mainline, for example: building new interchanges, improving DOT access roads and supporting Go Maine and Zoom commuter systems.

The Turnpike retains its self-sufficiency while charging one of the lowest toll rates in the country: 4.7 cents per mile for cars and 18.9 cents for 18-wheelers. By comparison, New Hampshire's tolls in Hampton are more than double at 12.3 and 34 cents per mile, respectively.

As the Turnpike's executive director for the past three months, I have been helping to craft statutes and policies that will make this public agency more transparent and accountable. The MTA board, staff and key state lawmakers have collectively reached a place where a new administrative era and a much-needed healing process can begin.

We have also focused on the pressing issue of the Turnpike's York County corridor. This southernmost section of the pike presents two big challenges: We need to replace the outmoded York toll plaza and to

remedy problems with all three bridges between Kittery and Portsmouth.

Problems with the York toll are manifold: It was built as a temporary structure 42 years ago; it is poorly positioned on a curve at the bottom of a grade; the adjoining roadway has sunk several feet into the wetlands upon which it was built; Exit 7 is too close, causing motorists to weave when entering and exiting the highway; and the toll plaza lacks the speedy collection capability introduced a year ago in Hampton, N.H. Tourists

As decisions are made in York, we will make them on the basis of science, data and experience and will avoid, as best we can, emotional bias and speculation.

Continued

and truckers endure unnecessary backups during peak travel times.

By any measure, the York toll plaza is ripe for replacement. While we all hope America will develop a successful interstate system for collecting tolls entirely by electronic means and avoiding cash, that hasn't happened yet particularly for locations like York where half the traffic is from out of state.

E-ZPass, even at present slow speeds, saved the York toll from becoming intolerably obsolete a dozen years ago. While the toll remains a point of congestion, the most prominent choke point is the bridge straddling the Piscataqua River between Maine and New Hampshire. Built six lanes wide in 1972, this high-rise bridge is now slow to handle peak traffic on Sunday afternoons in August. People tend to reduce speed at high elevations. Difficult road geometry on the New Hampshire side also slows traffic. Cars will sometimes back up from the bridge all the way to the York toll seven miles north.

At the Maine-N.H. border, all three aging bridges linking the two states are in dire need of replacement or overhaul. And even though none of them belongs to the Turnpike, the MTA has been tapped to contribute a total of \$81 million to the bi-state engineering and construction effort.

As decisions are made in York, we will make them on the basis of science, data and experience and will avoid, as best we can, emotional bias and speculation.

We should be anxious to show tourists that Maine is rolling out the red carpet as they enter the state. At the northbound Kennebunk rest area, over three million people a year get out of their cars. For many, it is their first step on Maine soil. Yet, the only newspaper for sale is *U.S.A. Today*; the only ice cream is Hershey's. It's a beautiful rest stop built only a few years ago, but it needs a Maine flavor. We are in touch with our tenant and with many people connected with Maine tourism to see what we can do. Reader suggestions are welcome.

The Turnpike also has its own radio station (1610 AM) to alert motorists about traffic impediments. Shouldn't we also advise them about the Yarmouth Clam Festival, the Bangor Folk concerts, snow conditions in the mountains and other good things waiting for them up the road?

Many tourists travel such a long way to get here. When they come back to northern New England again, we want them to stay on I-95 to seek all the adventures Maine has to offer. ■

June 13, 2011