

2-2014

# Annual Report on Activities and Performance, 2013

Office of Program Evaluation and Government Accountability

Beth Ashcroft

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Office of Program Evaluation and  
Government Accountability

Annual Report on  
Activities and Performance

2013

a report to the  
Government Oversight Committee and the Legislature  
from the  
Office of Program Evaluation & Government Accountability  
of the Maine State Legislature

February  
2014

## GOVERNMENT OVERSIGHT COMMITTEE OF THE 126<sup>TH</sup> LEGISLATURE

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Senator Roger Katz  
Senator David C. Burns  
Senator Margaret M. Craven  
Senator Christopher K. Johnson  
Senator Edward M. Youngblood

Representative Chuck Kruger, Chair  
Representative Paul T. Davis, Sr.  
Representative Andrea M. Boland  
Representative H. David Cotta  
Representative Lance Evans Harvell  
Representative Matthew J. Peterson

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Requests for OPEGA reviews are considered by the Government Oversight Committee in accordance with a standard process. Requests must be made in writing and must be initiated or sponsored by a legislator. Individual legislators or citizens should review the process and FAQ that are posted on OPEGA's website at <http://www.maine.gov/legis/opegas/ProcessProducts.html>. There is also a form there to help facilitate the GOC's consideration of the request. Legislative committees can request reviews directly through a written communication to the Government Oversight Committee.

Copies of OPEGA's reports are free.

Reports are available in electronic format at:

<http://www.maine.gov/legis/opegas/Reports.html>

Hard copies of reports may be obtained by contacting OPEGA at:

(207) 287-1901

Office of Program Evaluation & Government Accountability

82 State House Station • Augusta, ME • 04333-0082



BETH L. ASHCROFT  
DIRECTOR

MAINE STATE LEGISLATURE

OFFICE OF PROGRAM EVALUATION AND  
GOVERNMENT ACCOUNTABILITY

February 14, 2014

The Honorable Emily Cain, Senate Chair  
The Honorable Chuck Kruger, House Chair  
And Members of the Government Oversight Committee  
82 State House Station  
Augusta, Maine 04333

The Honorable Justin Alford, President of the Senate  
and Members of the 126<sup>th</sup> Maine Senate  
3 State House Station  
Augusta, Maine 04333

The Honorable Mark Eves, Speaker of the House  
and Members of the 126<sup>th</sup> Maine House of Representatives  
2 State House Station  
Augusta, Maine 04333

Dear Government Oversight Committee Members, Senators and Representatives:

In accordance with 3 MRSA §995.4, I respectfully submit OPEGA's Annual Report on Activities and Performance for 2013. OPEGA's service to the Legislature as a non-partisan resource is meant to provide support in overseeing and improving the performance of State government. I hope that you and Maine's citizens will continue to view our efforts and results as a worthwhile use of taxpayer dollars.

Sincerely,

A handwritten signature in black ink that reads 'Beth L. Ashcroft'.

Beth L. Ashcroft  
Director

Cc: Darek Grant, Secretary of the Senate  
Millicent MacFarland, Clerk of the House

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# About OPEGA

## History:

The Office of Program Evaluation and Government Accountability (OPEGA) is a non-partisan, independent legislative office created by Public Law 2001, Chapter 702. The Office first became operational in January 2005. Its authorizing statute is 3 MRSA §§991- 997.

## Organization:

OPEGA is part of a unique organizational arrangement within the Legislature that ensures both independence and accountability. This structure is critical to ensuring that OPEGA can perform its function in an environment as free of political influence and bias as possible.

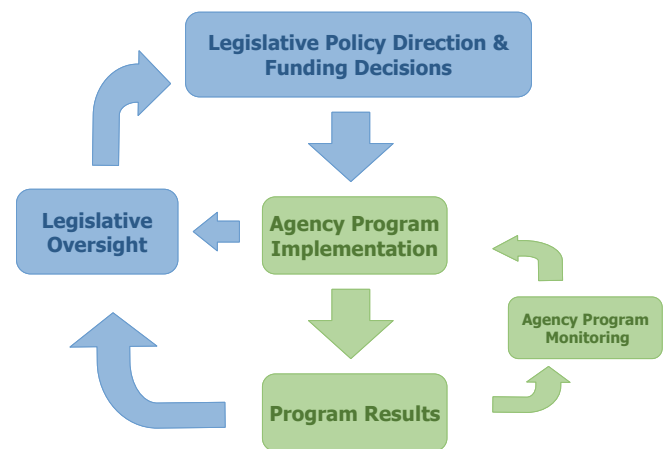
The Legislative Council appoints the Director of OPEGA for five year terms and also sets the Director's salary. OPEGA's activities are overseen by the legislative Government Oversight Committee (GOC), a 12-member bi-partisan and bi-cameral committee appointed by legislative leaders according to Joint Rule. The GOC's oversight includes approving OPEGA's budget and annual work plan as well as monitoring OPEGA's use of resources and performance.

## Staffing:

OPEGA has an authorized permanent staff of seven full-time positions including the Director and the Administrative Secretary, who also serves as the Committee Clerk for the GOC. In 2013, OPEGA also had one temporary part-time analyst position for five months.

## Function:

OPEGA primarily supports legislative oversight by conducting independent reviews of State government as directed by the GOC<sup>1</sup>. As legislators perform their oversight function, they often have questions about how policies are being implemented, how programs are being managed, how money is being spent and what results are being achieved.



The GOC and OPEGA address those questions from an unbiased perspective through performance audits, evaluations and studies. The independence and authorities granted by their governing statute provide the Legislature with a valuable supplement to policy committee oversight. In addition, the GOC and OPEGA are in an excellent position to examine activities that cut across State government and span the jurisdictions of multiple policy committees.

The results of OPEGA's reviews are provided to legislators and the public through formal written reports and public presentations.

<sup>1</sup> When directed to do so, OPEGA also has authority to perform audits of non-State entities that receive State funds or have been established to perform governmental functions.

## Mission

The Office of Program Evaluation and Government Accountability exists to support the Legislature in monitoring and improving the performance of State government by conducting independent, objective reviews of State programs and activities<sup>2</sup> with a focus on effectiveness, efficiency and economical use of resources.

## Vision

OPEGA is valued as a credible source of objective information that contributes to good government and benefits Maine's citizens.

## Values

OPEGA seeks to be a model for best practices in government and is committed to:

- ◆ Independence and objectivity
- ◆ Professionalism, ethics and integrity
- ◆ Participatory, collaborative approach
- ◆ Timely, effective communications
- ◆ Valuable recommendations
- ◆ Continuous improvement
- ◆ Using skilled and knowledgeable staff
- ◆ Minimizing disruption of operations
- ◆ Identifying root causes
- ◆ Measuring its own performance
- ◆ Smart use of its own resources

## Overall Goals

- A. Provide timely, relevant and useful information and recommendations.
- B. Conduct all work with objectivity and accuracy.<sup>3</sup>
- C. Communicate regularly on our activities, results and impacts.
- D. Utilize OPEGA's resources effectively, efficiently and economically.

## Indicators of Overall Outcomes

OPEGA tracks and reports on the following measures as broad indicators of the outcomes of our work:

- number of visits to OPEGA's website;
- percentage of recommendations that have been implemented or addressed affirmatively by the agencies or the Legislature; and
- estimated fiscal impact, actual or potential, associated with OPEGA recommendations.

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<sup>2</sup> When directed to do so by the Government Oversight Committee, OPEGA is also authorized to perform audits of non-State entities that receive State funds or have been established to perform governmental functions.

<sup>3</sup> OPEGA adheres as fully as possible to the performance auditing standards issued by the United States Government Accountability Office (GAO), known as the *Generally Accepted Government Auditing Standards (GAGAS)* or Yellow Book standards. Adherence to professional standards assures OPEGA's work is objective and accurate and reported results are appropriately supported.

# Key Activities in 2013

## OPEGA Completed Four Projects and Conducted Substantial Work on Four Others

OPEGA's GOC-approved Work Plan for 2013-2014 includes ten projects - seven regular performance reviews, two special projects and one formal follow-up review. Two of the performance reviews, the follow-up review and one special project were carried over from 2012. The remaining six projects were assigned by the GOC of the 126<sup>th</sup> Legislature who may still add or change projects in 2014. OPEGA's Work Plan and project status, shown in Table 1, is posted on the Office's web site.

The Office completed three of the performance reviews, including the two carry-overs from 2012, and issued three full reports with the results of those projects. Those reports contained 15 recommendations. Three of those recommendations have been implemented, or otherwise affirmatively addressed, and eight are in progress. Summaries of the results of those reviews can be found in the Summary of Projects and Results section beginning on page 11.

In addition, OPEGA conducted substantial work on three other reviews currently in progress. The final reports on two of them are expected to be released during the first half of 2014. The formal follow-up review of the Office of Information Technology is expected to continue through 2014.

**Table 1. OPEGA Work Plan for 2013-2014 by Status and Date Initiated**

Project Name	Date Initiated	Scope Approved	Status	Date Completed
Maine State Housing Authority: Energy Assistance Programs	June 2012	Sept 2012	Completed	July 2013
Public Utilities Commission	August 2012	Nov 2012	Completed	Sept 2013
Healthy Maine Partnerships' FY13 Contracts and Funding	May 2013	May 2013	Completed	Dec 2013
Special Project: Technical Assistance for Education Committee Contracted Study of Education Funding	May 2012	NA	Completed	Dec 2013
Follow Up Review: Office of Information Technology	Nov 2012	Nov 2012	In Progress	NA
Special Project: Tax Expenditure Programs	July 2013	NA	In Progress	NA
Maine Economic Improvement Fund	August 2013	Sept 2013	In Progress	NA
State Lottery	August 2013	Dec 2013	In Progress	NA
DHHS Audit Functions	NA	NA	Planned	NA
DHHS Workplace Culture and Environment	NA	NA	Planned	NA



OPEGA finished its work on a Special Project to provide technical assistance to the Joint Standing Committee on Education and Cultural Affairs for a contracted independent study of Maine's school funding formula. OPEGA's support of this effort, as described in legislative Resolve 2011, Chapter 166, was approved by the GOC and began in 2012. During 2013, OPEGA provided assistance with: facilitating the consultant's access to needed data and information; facilitating interactions between the consultant and the Education Committee; monitoring the consultant's progress, methodology and deliverables; and reviewing and providing feedback on draft deliverables to ensure a useful product for legislators. The consultant's final report was submitted by the contracted due date of December 1, 2013.

The Special Project on Tax Expenditure Programs is also nearly finished. OPEGA's work on this project included:

- analyzing and categorizing all tax expenditures<sup>4</sup> included in the Maine State Tax Expenditure Report 2014-2015 produced by Maine Revenue Services; and
- drafting a proposed process for regular, objective legislative reviews of these lost revenues.

OPEGA consulted with representatives from the Pew Center for the States to consider best practices from other states that could be incorporated into that process. The GOC also provided input. Currently, draft legislation to establish a process is being reviewed by the Taxation Committee for possible introduction as a Committee Amendment to LD 1463. GOC and the OPEGA continue to provide input as the draft legislation is further developed.

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## OPEGA Monitored Actions Taken on Six Issued Reports

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OPEGA actively follows up with agencies on actions taken, and monitors legislative efforts when applicable, related to report recommendations. The GOC periodically reviews the implementation status of specific reports and often receives formal report backs from responsible agencies.

In 2013, the GOC adopted a procedure for OPEGA's follow-up on issued reports. Under that procedure, OPEGA ceases active follow-up of any outstanding recommendations for reports issued more than two years ago. The procedure also calls for OPEGA to report to the GOC semi-annually on its follow-up activities and the status of actions on related recommendations so the GOC can determine whether additional action by the Committee is warranted.

In accordance with the procedure, in 2013, OPEGA monitored the status of actions on outstanding recommendations in six reports and ceased active follow-up of outstanding recommendations in four reports. Appendix B gives the follow up status of all OPEGA reports. The GOC, or other legislative committees, are currently considering further action on two previously issued reports as a result of these follow-up activities. OPEGA tracks the percent of recommendations implemented over time, as well as the estimated potential fiscal impact associated with recommendations, as overall outcome indicators. See page 9 for more detail on these results.

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<sup>4</sup> As defined in 5 MRSA §1666, "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability.

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## OPEGA Supported GOC and Other Legislative Efforts

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OPEGA serves as staff for the Government Oversight Committee which held 13 meetings in 2013. Staff support includes coordinating and giving notice of meetings and agendas, developing and distributing written meeting materials, and preparing written summaries of the meetings. An archive of the Meeting Summaries from all GOC meetings is maintained on OPEGA's website.

OPEGA also performs research and gathers information to support the Committee's consideration of potential review topics. In 2013, the Office processed and conducted research related to eight formal requests for OPEGA reviews or assistance. Seven were requests from legislators or legislative committees – five from GOC members.<sup>5</sup> Additionally, OPEGA conducted research to update information for ten topics on the GOC's On Deck List and three other topics proposed by GOC members during development of OPEGA's 2013-2104 Work Plan.<sup>6</sup> The GOC requested more research on five topics. OPEGA prepared the following written research summaries and made them available to other interested legislators and citizens:

- Business Equipment Tax Reimbursement/Business Equipment Tax Exemption;
- Charter Schools;
- Maine Economic Improvement Fund;
- Tree Growth and Open Space Tax Laws; and
- Department of Health and Human Services Audit Functions.

In addition to staffing the GOC, OPEGA occasionally provides support or information for other legislative efforts outside of the current projects on the Office Work Plan. In 2013, OPEGA:

- Provided input, as requested, to the Joint Standing Committee on Judiciary during its consideration of several bills related to Guardians *ad Litem* for children including LD 872, An Act to Improve the Quality of Guardian *ad Litem* Services for the Children and Families of Maine, which was based in large part on recommendations made in OPEGA's 2006 report on Guardians *ad Litem* for Children in Child Protection Cases.
- Concurrent with our work on the Tax Expenditure Programs project, the Legislature directed OPEGA to provide support to the Tax Expenditure Review Task Force established in Public Law 2013, Chapter 368, Part S. We shared the results of our analysis and categorization of expenditures with the Task Force and produced several other analyses for its use. We also sought and incorporated the Task Force's input in developing a proposed process for on-going legislative review. The Task Force report submitted to the Appropriations and Financial Affairs Committee in December 2013 included a description of OPEGA's work with the Task Force.

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<sup>5</sup> Of the seven formal requests received from legislators or legislative committees, two were withdrawn and the remaining five were considered by the GOC. The GOC placed three of those topics on OPEGA's 2013 Work Plan as reviews or special projects and the other two are still under consideration. The eighth formal request received was from a citizen and, after some research, OPEGA determined the subject matter was not within the purview of OPEGA and the GOC.

<sup>6</sup> The GOC maintains a formal On Deck List of topics the Committee voted as having merit for potential future OPEGA review. The GOC reviews the topics on this list during the development of OPEGA's Work Plan and throughout the year as warranted. Periodically, the GOC also votes on whether to add or remove topics from this list.

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## OPEGA Kept Legislators and Public Informed of Activities and Impact

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OPEGA strives to keep those we serve regularly apprised of the projects and other activities we are working on, our results, and the work products available on the projects we complete. We also seek to provide information about the actual impacts of our work and the recommendations made as a result. Our target audience includes all legislators, not just GOC members, and the general public. OPEGA's communication efforts in 2013 included:

- posting our Work Plan (with current status) and reports, as well as GOC Meeting Agendas and Summaries, to OPEGA's website;
- distributing GOC meeting agendas in advance to an interested parties email list the Office maintains that includes media representatives, legislators and members of the public that have asked to receive such notifications;
- sending written advance notification of the scheduled public presentation of OPEGA reports, and related GOC public comment periods, to the members of legislative leadership and all joint standing committees that may have jurisdiction over, or a special interest in, the subject matter of the reports;
- distributing, immediately following release of the report, full copies of the final reports to each member of legislative leadership and all joint standing committees that may have jurisdiction over, or a special interest in, the subject matter of the reports;
- notifying all legislators, within a day of the report release, that a final report is available - typically done via email with a report summary attached;
- briefing legislative joint standing committees, when requested, on our reports and results as well as actions taken on our recommendations;
- submitting the statutorily required annual report on OPEGA's activities and performance for 2012 to the Government Oversight Committee and the Legislature; and
- responding to numerous inquiries on our work from interested legislators, citizens and the media.

In 2013, as in the previous two years, there was media interest in some OPEGA reports, as well as certain topics under consideration by the GOC. The media coverage, when it occurs, is generally helpful in keeping the public and legislators informed of GOC and OPEGA activities. OPEGA tracks the number of visits to our website as a general overall indicator of interest. That metric is discussed on page 8 of this report.

OPEGA's Annual Reports also include mention of significant actions taken on past reports in the past year (see page 14) as well as discussion of two overall indicators of impact that we track. Those indicators, discussed on pages 9-11, are percent of recommendations implemented or affirmatively addressed and estimated potential fiscal impact associated with OPEGA's recommendations.

## OPEGA Stayed Within Budget but Faced Staffing Challenges in 2013

OPEGA's actual expenditures have been under budget each year since beginning operations in 2005 and that trend continued in 2013. Table 2 shows OPEGA's adjusted General Fund budget and actual expenses for the past three fiscal years.

**Table 2. OPEGA's Adjusted Budget and Expenditures by Year.**

	FY 2011	FY 2012	FY 2013
Total General Fund budget (adjusted)	\$962,048	\$791,442	\$817,894
Total General Fund dollars expended	\$780,173	\$672,613	\$721,858
Dollar variance of expenditures to budget	(\$181,875)	(\$118,829)	(\$96,036)
% variance of expenditures to budget	(19%)	(15%)	(11.7%)

OPEGA's adjusted budget for FY11 included a transfer of \$147,268 from prior year unencumbered balances to cover anticipated consulting costs - increasing OPEGA's adjusted budget for that year from \$814,780 to \$962,048. In FY13, OPEGA's adjusted budget also included a transfer of \$20,000 from prior year balances to cover costs associated with a temporary part-time position. In some years, OPEGA's baseline budget is adjusted to meet State or legislative cost savings initiatives. OPEGA's adjusted budgets for FY12 and FY13 included reductions associated with eliminating merit salary increases for employees and changes to employee benefit plans.

OPEGA's actual expenditures for FY13 were \$721,858 about 12% under the adjusted budget. The variance was primarily due to:

- full-time position vacancies partly offset by salary, benefits and vacation payouts for a temporary part-time position that ended in June 2013;
- no projects requiring consultant services; and
- actual costs for employee training, printing, advertising and per diem payments for GOC members lower than budgeted.

OPEGA faced some staffing challenges in 2013 with turnover in two full-time positions and resulting vacancies while those positions were filled. The impact of the full-time vacancies was somewhat lessened by having a temporary part-time employee for five months and a part-time consultant for another five months. Even with these part-time resources, however, OPEGA was down on average one full-time equivalent over the course of the entire year.

## Outcome Indicators

OPEGA tracks three measures that are broad indicators of the outcomes of our work; potential fiscal impacts, recommendations implemented and visits to OPEGA's website. Outcomes associated with OPEGA's work are affected by many factors beyond OPEGA's control. For example, the nature of review topics assigned to OPEGA by the Government Oversight Committee can vary considerably from year to year and not all are primarily focused on cost savings. The ability to calculate estimated savings also varies based on the exact nature of the recommendations made and data available. Nonetheless, OPEGA is committed to identifying and documenting opportunities to improve the State's fiscal situation, where applicable, within the study areas determined by the GOC.

Similarly, while OPEGA is committed to offering recommendations that are actionable and make sense for the State, many factors outside our control affect whether those recommendations are implemented. Such factors include agency priorities, the nature and availability of resources needed for implementation, and political considerations. Some of our recommendations also call for actions that lay the ground work, or nurture support, for longer term improvements that may take time to implement and may not show their full benefits for years to come.

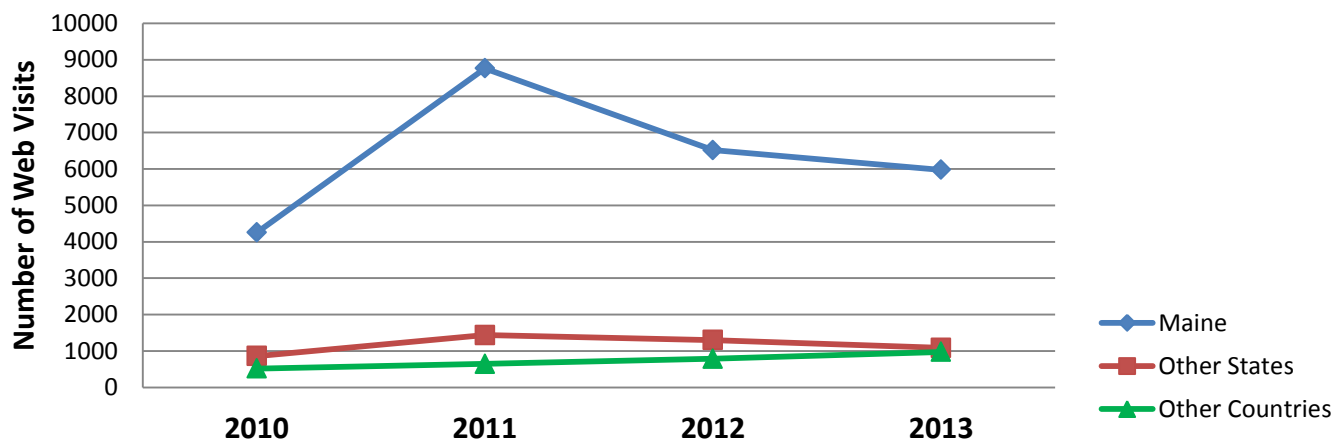
## Number of Visits to OPEGA's Website

We track this measure as an indicator of the overall interest in our function and our work products. Figure 1 shows the trends in number of visits by point of origin. Table 3 gives the total number of web visits in each year and the details on the number of different locales those visits came from. OPEGA began tracking website visits in 2008 and since that time there have been a total of 48,541 visits to the website including:

- 38,022 visits from 255 Maine towns
- 6,413 visits from the 50 other states and the District of Columbia
- 3,895 visits from 140 countries other than the USA.

As shown in Figure 1, OPEGA's website traffic continued to decline in 2013 from a high in 2011. We believe the trend in website visits over the years, particularly with regard to web visits from within Maine, reflects the number of OPEGA reports released each year and, more importantly, the degree of media interest in those reports. Several of OPEGA's projects in 2011, and the GOC actions related to them, were of significant general interest to Maine's citizens and were well covered throughout the year by Maine's media. This included the report on the Maine Turnpike Authority and the GOC investigation that followed, which also garnered national and international attention. There was also media coverage of two reports released in 2012. In 2013, however, there was only one report, released in December 2013, that drew significant media attention continuing into 2014.

**Figure 1. OPEGA Web Visits by Point of Origin**



**Table 3. Details of OPEGA Website Visits 2010 - 2013**

	2010		2011		2012		2013	
Point of Origin	# of visits	# of locales	# of visits	# of locales	# of visits	# of locales	# of visits	# of locales
Maine towns	4,256	109	8,761	133	6,577	108	5,976	131
Other states*	861	48	1,439	48	1,318	47	1,086	47
Other Countries	517	75	645	82	810	89	974	92
<b>Total</b>	<b>5,634</b>		<b>10,845</b>		<b>8,705</b>		<b>8,036</b>	

\*Counts includes visits from the District of Columbia

## Percent of Recommendations Implemented or Affirmatively Addressed

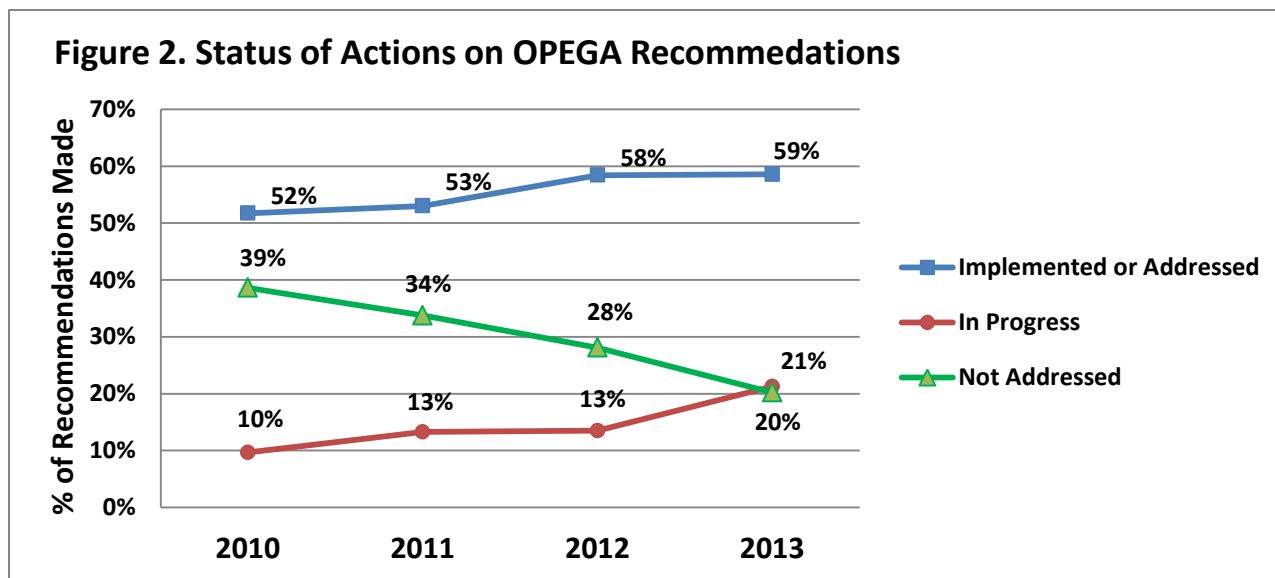
This is a measure of how often action is taken by agencies or the Legislature to address the specific issues identified in our reviews, either through implementation of our recommended action or through alternative actions reasonably expected to improve the situation we identified. Tracking this data gives us insight into the significance and usefulness of our recommendations, as well as the overall effectiveness of our ability to stimulate warranted changes in State government.

Table 4 shows the cumulative number of recommendations by status for each of the last four years. For the period January 2005 through December 2013 (based on OPEGA's follow-up to date) 59% of all recommendations made (113 of 193) have been implemented or affirmatively addressed including:

- 62% of the recommendations directed to management (81 of 131); and
- 52% of recommendations directed to the Legislature (32 of 62).

OPEGA is aware of activities in progress that, if successfully completed, could result in implementation of another 41 recommendations, of which 29 were directed to management and 12 to the Legislature.

In each of the past four years, as shown in Figure 2, the percentage of total OPEGA recommendations implemented or affirmatively addressed increased, as has the percentage of recommendations with some activity in progress. We believe this trend reflects improvements in crafting more actionable recommendations, increased willingness of agencies to act on issues identified by OPEGA, even while reviews are in progress, and the initiative of the GOC and individual legislators in the past few years to introduce legislation as a means to implement recommendations when appropriate.



**Table 4. Number of Recommendations by Status and Year**

Status	2010	2011	2012	2013
Implemented or Affirmatively Addressed	75	88	104	113
In Progress	14	22	24	41
Not Yet Addressed	56	56	50	39
<b>Cumulative Total of Recommendations Made</b>	<b>145</b>	<b>166</b>	<b>178</b>	<b>193</b>

Of the 39 unaddressed recommendations at the end of 2013, 35 are from reports that the Office and GOC are no longer conducting active follow-up on. The other four are from a report just released in December 2013.

Nearly half of the unaddressed recommendations are from the reports issued in 2006: State-wide Information Technology Planning and Management and Guardians *ad Litem* for Children in Child Protection Cases. In both instances, over the years the responsible agencies noted resource constraints or the need for additional resources as barriers to implementing OPEGA's recommendations or otherwise addressing the issues reported. In 2012 and 2013, after issues raised in these past OPEGA reports re-emerged, the GOC, other legislators and/or citizens initiated action that resulted in several priority recommendations from these two reports being addressed at the legislative level. However, even with these efforts, there are still 17 outstanding recommendations from these reports that remain unaddressed.

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## Estimated Potential Fiscal Impact Associated with OPEGA Recommendations

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The fiscal impacts associated with issues and recommendations reported by OPEGA for the period January 2005 through December 2013 are summarized below. Fiscal impacts associated with OPEGA's 2013 reports include reducing overpayments and unnecessary expenditures, reducing potential for fraud and misuse of funds and potential increase in annual costs for a new function. Some actual annual reduced costs associated with OPEGA's 2012 report on Child Development Services are also reported and included in the figures below. These impacts are described in more detail in the Summary of Reports and Results section on page 11 of this report. There was no reasonable basis for estimating dollar amounts associated with most of them, but dollar amounts that were available are included in the figures below. Supporting information about the fiscal impacts estimated for older reports can be found in OPEGA's prior annual reports.

As a result of identified weaknesses documented through OPEGA's work since 2005, there have been at least:

- \$30.5 million in unplanned costs that could have been avoided;
- \$4.18 million in overpayments and other unnecessary expenditures;
- \$597,806 in confirmed misuse of funds and fraud; and
- other inefficiencies, reduced productivity and opportunities for increase revenue that could not be readily quantified.

Correcting these deficiencies, as recommended by OPEGA, should help ensure that such negative fiscal impacts are not incurred in the future. Additionally, affected agencies have recovered at least \$430,000 of the total in confirmed misuse of funds and fraud from those responsible.

OPEGA recommendations for longer term, or more structural, changes have also offered the potential for avoiding or reducing costs on a significant level. For most of these, there was no reasonable basis for readily developing realistic, quantifiable estimates of what those positive fiscal impacts might be. In the few instances where sufficient information was available, we conservatively estimated **at least**:

- \$1,089,834 in actual reduced costs on an annual basis;
- \$190,700 in potential reduced costs on an annual basis;
- \$4,132,907 in potential reduced costs on a one-time basis; and
- 5,612 hours of State employee time (the equivalent of nearly 3 full-time positions) that could be saved or redirected.

Additional resources needed to implement recommendations made (including those meant to improve quality of services) are estimated to be at least:

- \$1,218,744 in one time expenditures; and
- \$628,196 in annual expenditures.

In some cases, the expenditure of additional resources is expected to be offset by future savings or greater efficiency and productivity but those offsets cannot be readily estimated.

## Summary of Projects and Results

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During 2013, OPEGA reported on three projects bringing the total reports published by OPEGA since 2005 to 36. A listing of those reports can be found in Appendix A.

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### Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP

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OPEGA was tasked with reviewing two energy assistance programs, the Low Income Home Energy Assistance Program (LIHEAP) and the Weatherization Assistance Program (WAP). Both LIHEAP and WAP are federally funded programs which enable states to help low-income households, particularly those with members susceptible to hypothermia, meet their home heating needs. LIHEAP primarily provides fuel assistance and WAP provides assistance through the installation of weatherization measures in eligible households. The portion of OPEGA's review related to LIHEAP was focused on effective and efficient administration of the program, while the focus of the WAP portion was on the results being achieved.

OPEGA found that overall MaineHousing administers the LIHEAP program in an effective and efficient manner. The program operates in alignment with federal expectations and MaineHousing attempts to maximize benefits and clients served within the parameters of those expectations. MaineHousing also spends LIHEAP administrative funds appropriately. OPEGA did note, however, that controls to prevent and detect abuse of LIHEAP benefits were weak, allowing for potential abuse to occur and go undetected. Although only a small percentage of records analyzed by OPEGA were flagged as potential issues, the control weaknesses should be addressed to the extent possible.

OPEGA concluded that the WAP program generally produces satisfactory results. Overall, the program is well operated and in alignment with federal expectations. The households that are weatherized reflect program priorities and requirements. Weatherization projects are generally completed to program specifications and clients are very satisfied with the services received. Finally, policies and fiscal benchmarks are in place to ensure that funds are spent on actual weatherization services and, in particular, those services that produce greater energy savings than they cost.

There are, however, several areas where MaineHousing can take steps to strengthen WAP program performance. They include procurement, oversight and support of the Community Action Agencies (CAA) that implement the program, and use of outcome-based performance measures and data for monitoring the program. MaineHousing had already begun addressing these areas during the review. OPEGA also identified some WAP policy-level decisions that might be reconsidered in the future to ensure that as many clients, and the neediest clients, are served to the degree possible and allowable.

The agency has taken a number of steps in response to this report, addressing both LIHEAP and WAP. MaineHousing has strengthened some computer controls, as well as policies and procedures, and implemented regular data analysis routines that should further minimize potential abuse in the LIHEAP program. MaineHousing



also further examined LIHEAP transactions from 2008 to 2012 that OPEGA identified as potential abuse and confirmed that 111 of them appeared to be problematic. MaineHousing recalculated benefit amounts on 34 of those transactions that occurred in 2011 and 2012 and identified an estimated \$6,104 in benefits that may have been overpaid, noting that computer controls implemented over the five year period had reduced the number of these instances. With regard to WAP, MaineHousing has restructured the procurement process with the CAAs to provide more direct oversight of the process itself and will be leveraging the ECOS data system to improve management and performance monitoring of the program. Additionally, MaineHousing has returned to a regular schedule for auditing the CAAs administering WAP, with follow-up audits planned for each CAA six months after approval of a Corrective Action Plan.

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## Public Utilities Commission

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OPEGA reviewed compliance, accessibility and the responsiveness of certain PUC processes, including Ten-Person complaints and other avenues available to consumers with common utility-related concerns. This was done from the viewpoint of ratepayers and members of the public, rather than that of regulated utilities. OPEGA also considered the adequacy of measures in place to ensure that the PUC acts in an impartial and unbiased manner when regulating public utilities.

OPEGA found that, overall, the PUC acts in compliance with its statutes and rules when handling Ten-Person complaints, though we did note instances where the Commission did not issue a decision within the nine-month timeframe required by statute. We also found that the Ten-Person complaint process is generally accessible and responsive to consumers' concerns. However, it is notably less so for complaints in which the PUC opens an investigation and deals with the complaint through an adjudicatory proceeding, particularly when complainants are representing themselves before the Commission.

Additionally, OPEGA found that State laws and PUC rules include ethical standards and other measures to support a transparent public process and impartial unbiased decisions, and we saw evidence of PUC compliance with those statutes and rules. However, these measures mainly focus on conflicts arising from financial interests and do not address all the factors that present risk, or create perceptions, of bias. Consumers OPEGA spoke with were more concerned with biases arising from relationships among individuals with shared perspectives. In Maine there is a reliance on personal integrity and ethics to guard against these types of bias.

Specific issues OPEGA noted in the report are:

- PUC's adjudicatory proceedings/process can be confusing and intimidating for citizens who want to represent themselves as parties in PUC cases.
- On-line case file system is difficult to navigate and search without a specific docket number.
- Consumers may not be aware that unsworn testimony and on-line comments submitted in PUC cases cannot be relied upon in the Commission's decision-making.
- PUC does not always make decisions on Ten-Person complaints that go to adjudicatory proceedings within nine months as required by statute.
- PUC lacks a structured process for identifying and addressing emerging issues and common concerns from individual complainants.
- Past associations and current working relationships between PUC staff and/or Commissioners and utilities they regulate create risk of actual or perceived bias.

The PUC has begun taking steps to address OPEGA's recommendations including enhancing communications to consumers to better explain the PUC's adjudicatory process, the role of the PUC staff and how the Commission uses comments and unsworn testimony submitted in PUC cases. The Government Oversight Committee and the Joint Standing Committee on Energy, Utilities and Technology continue to consider what legislative actions may be warranted to address issues raised in OPEGA's report and in the public comments received by the GOC following the report's issuance.

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## Healthy Maine Partnerships' FY13 Contracts and Funding

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OPEGA reviewed the processes used, and documentation maintained, in the Maine Center for Disease Control and Prevention's (MCDC) selection of lead Healthy Maine Partnerships (HMP) and distribution of funds among HMPs for Fiscal Year 13 HMP grant awards. The Healthy Maine Partnerships Program is administered by the Maine Center for Disease Control and Prevention and implemented through independent, local HMP coalitions.

For FY13, MCDC made significant changes to the HMP program structure and funding distributions to the HMP coalitions. These changes were announced in June 2012 and public questions quickly arose about the process MCDC used to make its decisions. Allegations made by a MCDC senior manager in April 2013 prompted renewed legislative concerns about the process used to select lead HMPs and the potential shredding of related documents.

OPEGA acknowledged that MCDC did not have sufficient time to complete its typical Request for Proposal (RFP) process and followed guidance from DAFS Division of Purchases in pursuing an alternative approach. However, the lack of a new RFP process for the FY13 grant awards was not ideal given the change in roles and responsibilities for HMPs selected as leads.

OPEGA found that while the overall approach MCDC envisioned for selecting lead agencies could have been an appropriate alternative, the manner in which it was implemented was inappropriate and inconsistent. Existing HMP performance data was not useful for lead selection and criteria ultimately used were not relevant to key lead responsibilities in the new structure. In addition, multiple weaknesses in MCDC's scoring methodology undermined credibility of the process and presented the opportunity for MCDC to manipulate final outcomes. There were strong indications, including accounts from multiple interviewees, that such intentional manipulation may have occurred in the selection of the lead for the Penquis District.

OPEGA also found that MCDC did not maintain sufficient documentation to support key decisions in the course of its FY13 HMP lead selection process. While no documentation provided to us was withheld in response to the FOAA requests DHHS received, there was a next to final version of the scoring matrix referenced by multiple interviewees that was not provided to OPEGA and was not located in the electronic files. We know a former MCDC senior manager document claims a document similar in description to the scoring matrix referenced above was in her files and it has not been provided in response to her FOAA request.

MCDC will use a formal RFP process for the next HMP grant cycle beginning in FY16, and is working with the Maine State Archives to review and update the records management policies and practices used by the Department. The Department also has a goal of collecting high quality data and holding partners, including HMPs, accountable to performance measures.

As of the date of this Annual Report, the GOC is still considering what legislative actions might be warranted to address the concerns raised in this review.

## Actions on Past Reports

OPEGA and the GOC continue to monitor actions taken on previously issued reports, and determine whether additional Committee action is needed to implement recommendations not yet satisfactorily addressed. Some notable actions taken on past OPEGA reports in 2013 were:

- The Legislature enacted PL 2013 Chapter 406 to improve Guardian *ad Litem* services for children. The law addresses and/or implements several recommendations from OPEGA's 2006 report such as clarifying the role and authority of GALs and improving the complaint process. Over the next year, the Supreme Judicial Court will develop and adopt standards of conduct for GALs, rules for the complaint process, and a post judgment evaluation process to collect and analyze data from parties in cases to which GALs are appointed.
- In compliance with 5 MRSA §§12023, 24 quasi-independent State entities submitted required reports to the Legislature by February 1, 2013 and the Executive Director of the Legislative Council forwarded each report to the appropriate joint standing committees. These reports described the entity's status in adopting and implementing written policies and procedures required by 5 MRSA §12022 on procurement practices and expenditures for contributions and travel, meals and entertainment. The GOC sent a letter to the joint standing committees reminding them of the reports and offering suggestions for their use. At the direction of the GOC, OPEGA also reviewed the reports to verify that each included all required information. Beginning in 2014, these entities will report annually to the Legislature on non-competitive procurements and contributions made in the prior year. The legislation resulting in these statutory reporting requirements was introduced by the GOC in 2012 as a by-product of OPEGA's 2011 report on the Maine Turnpike Authority.
- Child Development Services moved forward with implementation of OPEGA's 2012 report recommendations to improve the organization's structure, fiscal and contract management and increase revenue. CDS centralized provider contracts and standardized contract forms. CDS now procures professional services, such independent audit services, using a request for proposal process and has no contracted employees. Changes to organizational structure as well as changes to process and approach have resulted in an increased focus on fiscal stewardship and consistent service delivery organization-wide. CDS increased the number of private insurance companies it bills for services and expects to add more. Revised monthly fiscal reports for all CDS sites now include budget-to-actual information, current expenditures and insurance revenue. CDS projects revenue from private insurers will continue to grow and reports that it is seeing cost savings from changes made in response to OPEGA recommendations. Most of the cost savings cannot be reliably estimated, although CDS was able to estimate on-going annual savings totaling about \$323,000 from contract changes and the transfer of a CDS-run pre-school to a private provider.
- The Legislature enacted PL 2013 Chapter 338 which significantly enhanced Child Development Services' annual reporting requirements to the Legislature. The more detailed fiscal and programmatic data that will now be submitted to the Legislature should enhance oversight and inform policy-making for this significant program. The Public Law was a result of legislation introduced by the Government Oversight Committee (LD 34) following the issuance of OPEGA's 2012 report.
- The Department of Economic and Community Development (DECD) updated the State's Inventory of Economic Development Programs and, following a competitive bid process, contracted with independent consultants for the second Comprehensive Evaluation of Economic Development Programs. Both of these efforts are on-going activities resulting from recommendations in OPEGA's 2006 report on Economic Development Programs in Maine. The report from the first Comprehensive Evaluation was issued in March 2009. Although statute required subsequent evaluations on an annual basis, resource issues kept DECD from meeting that statutory obligation until 2013. The report from this current Comprehensive Evaluation has recently been submitted to the Legislature and is available on DECD's website.

Appendix B summarizes the current implementation and follow-up status of OPEGA's reports.

# Acknowledgements

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OPEGA would like to acknowledge and express appreciation to others in State government for the knowledge, service and other assistance they willingly contribute to OPEGA's reviews and general operations. In particular, special thanks to the:

- Office of the Executive Director of the Legislature;
- Office of Legislative Information Technology;
- Office of Policy and Legal Analysis;
- Office of Fiscal and Program Review;
- Law and Legislative Reference Library;
- Office of the State Controller;
- State Audit Department; and
- Office of the Attorney General.

## Appendix A: Listing of Available OPEGA Reports by Date Issued

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
Healthy Maine Partnerships' FY13 Contracts and Funding	December 2013	Approach to selecting HMP lead agencies appropriate but the process was poorly implemented and allowed for manipulation of outcomes. Funding was consistent across HMPs based on role. Documentation maintained was insufficient to support key decisions in the selection process.	AFA HHS
Public Utilities Commission	September 2013	Improvements can be made in accessibility and responsiveness of avenues available for consumers to raise utility-related concerns. Risk of actual and perceived bias on the part of the PUC persists.	EUT
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP	July 2013	Both programs administered well overall but LIHEAP controls should be improved and ongoing efforts to strengthen WAP program operations should be continued.	LCRED
Communications Regarding a Computer System Weakness Resulting in MaineCare Claims Payments for Ineligible Individuals	November 2012	DHHS MIHMS project staff knew of the issue in 2010, but executive management knowledge of the issue and its impact was limited until early 2012. Several factors contributed to the system weakness not being highly prioritized or reported to the DHHS Commissioner earlier.	AFA HHS
Child Development Services	July 2012	Implementing comprehensive program management, encouraging responsible stewardship of resources, and developing data to support management decisions could improve efficiency and cost effectiveness.	AFA EDUC
Cost Per Prisoner in the State Correctional System	June 2012	MDOC's methodology for calculating the cost per prisoner is reasonable but the statistic is of limited use in comparing states to one another due to a number of variables.	AFA CJ&PS
Maine State Housing Authority: Review of Certain Expenditures	May 2012	Most expenses reviewed were connected to MaineHousing's mission. Some expense types or amounts may be unnecessary and should be reconsidered.	AFA LCRED
Health Care Services in State Correctional Facilities	November 2011	Weaknesses exist in MDOC's monitoring of contractor compliance and performance. Contractor not compliant with some MDOC policies and professional standards. New administration is undertaking systemic changes.	AFA CJ&PS
Sales of State Real Estate	October 2011	Process is inconsistent across departments. Public notice on real estate sales is limited.	
GOC Special Project: Investigation into Sale of Real Estate to Maine State Prison Warden	August 2011	GOC questioned judgment of State officials in allowing sale to proceed but found no intentional misdealings.	
Maine Green Energy Alliance	August 2011	Weak controls and informal practices created high risk for misuse of funds and non-compliance. No inappropriate funding uses identified, but compliance issues were noted.	EU&T

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
Certificate of Need	May 2011	Process appears clear, consistent and transparent. Opportunity for better documentation exists.	HHS
Health Care Services in State Correctional Facilities: Opportunities to Contain Costs and Achieve Efficiencies	April 2011	Opportunities exist to better manage costs of health care in State correctional facilities by restructuring contracts with providers and implementing electronic medical records.	AFA CJ&PS HHS
GOC Special Project: Investigation into MTA's Purchase of Gift Cards	April 2011	GOC determined there was sufficient evidence of potential misuse of funds to request an investigation by the Attorney General's Office.	
Maine Turnpike Authority	January 2011	Strong planning process drives bond and toll decisions. Some contracting practices and expenditure controls should be improved. Additional clarity needed around surplus transfer and operating expenses.	Transportation
Emergency Communications in Kennebec County	February 2010	Fragmented PSAP and dispatch network presents challenges. Quality and rate issues need to be addressed to optimize public safety.	EU&T CJ&PS
OPEGA's Special Project on Professional and Administrative Contracts	February 2010	Opportunities exist to reduce FY11 General Fund costs for professional and administrative contracts by temporarily suspending some contracts. Potential also exists to reduce costs of on-going agreements.	AFA
Fund for a Healthy Maine Programs	October 2009	Adequate frameworks exist to ensure cost-effectiveness of specific activities. Allocations should be reassessed and changes should be made to improve financial transparency.	AFA HHS
MaineCare Durable Medical Equipment and Medical Supplies	July 2009	Prevention and detection of unnecessary or inappropriate claims should be strengthened to better contain costs.	AFA HHS
Maine State Prison Management Issues	June 2009	The workplace culture of Maine State Prison may be exposing employees and the State to unacceptable risks and needs continued attention.	CJ&PS
MaineCare Children's Outpatient Mental Health Services	February 2009	8% of funds spent support DHHS's administrative costs. Primary drivers are a contract with the ASO and costs incurred in processing provider claims. Another 19% of expenses can be attributed to providers' administrative costs.	AFA HHS
Fund For A Healthy Maine Programs: A Comparison of Maine's Allocations to Other States and a Summary of Programs	February 2009	Maine consistently prioritized preventive health services more than other states.	AFA HHS
State Contracting for Professional Services: Procurement Process	September 2008	Practices generally adequate to minimize cost-related risks; controls should be strengthened to promote accountability.	AFA
DHHS Contracting for Cost-Shared Non-MaineCare Human Services	July 2008	Cash management needs improvement to assure best use of resources.	AFA HHS
State Administration Staffing	May 2008	Better information needed to objectively assess possible savings opportunities.	AFA

Report Title	Date Issued	Overall Conclusion	JSC's that Received Report
State Boards, Committees, Commissions and Councils	February 2008	Opportunities may exist to improve State's fiscal position and increase efficiency.	AFA State & Local Nat. Resources
Bureau of Rehabilitation Services: Procurements for Consumers	December 2007	Weak controls allow misuse of funds, affecting resources available to serve all consumers.	AFA Labor
Riverview Psychiatric Center: An Analysis of Requests for Admission	August 2007	Majority seeking admission not admitted for lack of capacity but appear to have received care through other avenues; a smaller group seemed harder to place in community hospitals.	CJ&PS HHS
Urban-Rural Initiative Program	July 2007	Program well managed; data on use of funds should be collected.	Transportation
Highway Fund Eligibility at the Department of Public Safety	January 2007	The absence of a clear definition of HF eligibility and reliable activity data prevent a full and exact determination of which DPS activities are eligible to receive HF.	AFA CJ&PS Transportation
Economic Development Programs in Maine	December 2006	EDPs still lack elements critical for performance evaluation and public accountability.	AFA Agriculture LCRED Taxation
Guardians <i>ad Litem</i> for Children in Child Protection Cases	July 2006	Program management controls needed to improve quality of guardian ad litem services and assure effective advocacy of children's best interests.	HHS Judiciary
Bed Capacity at Riverview Psychiatric Center	April 2006	RPC referral data is unreliable; other factors should be considered before deciding whether to expand.	CJ&PS HHS
State-wide Information Technology Planning and Management	January 2006	State is at risk from fragmented practices; enterprise transformation underway and needs steadfast support.	AFA State & Local
Review of MECMS Stabilization Reporting	December 2005	Reporting to Legislature provides realistic picture of situation; effective oversight requires focus on challenges and risks.	AFA HHS
Title IV-E Adoption Assistance Compliance Efforts	November 2005	Maine DHHS has made progress in addressing compliance issues; additional efforts warranted.	HHS

## Appendix B: Summary of Implementation and Follow-Up Status on Issued Reports

(Implementation status based on information gathered by OPEGA as of 12-31-13)

Report Title (Date)	Implementation Status	Follow-up Status
<b>Reports Still in Active Follow-Up Status (by date of issuance)</b>		
Healthy Maine Partnerships' FY13 Contracts and Funding (December 2013)	Limited Implementation (Activity in Progress)	Follow-up continuing
Public Utilities Commission (September 2013)	Partially Implemented (Activity in Progress)	Follow-up continuing
Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP (July 2013)	Partially Implemented (Activity in Progress)	Follow-up continuing
Child Development Services (July 2012)	Partially Implemented (Activity in Progress)	Follow-up continuing
Health Care Services in State Correctional Facilities (November 2011)	Partially Implemented (Activity in Progress)	Follow-up continuing
Maine Green Energy Alliance (August 2011)	Partially Implemented (Activity in Progress)	Follow-up continuing
MaineCare Children's Outpatient Mental Health Services (February 2009)	Limited Implementation (Activity in Progress)	Follow-up continuing
Economic Development Programs in Maine (December 2006)	Partially Implemented (Activity in Progress)	Follow-up continuing
<b>Reports No Longer in Active Follow-Up Status (by date of issuance)</b>		
Maine State Housing Authority: Review of Certain Expenditures (May 2012)	Fully Implemented	Active follow-up ceased
Maine Turnpike Authority (January 2011)	Fully Implemented	Active follow-up ceased
Emergency Communications in Kennebec County (February 2010)	Mostly Implemented	Active follow-up ceased
OPEGA's Special Project on Professional and Administrative Contracts (February 2010)	Partially Implemented	Active follow-up ceased
Fund for a Healthy Maine Programs (October 2009)	Mostly Implemented	Active follow-up ceased
MaineCare Durable Medical Equipment and Medical Supplies (July 2009)	Mostly Implemented	Active follow-up ceased
Maine State Prison Management Issues (June 2009)	Fully Implemented	Active follow-up ceased
State Contracting for Professional Services: Procurement Process (September 2008)	Fully Implemented	Active follow-up ceased
DHHS Contracting for Cost-Shared Non-MaineCare Human Services (July 2008)	Fully Implemented	Active follow-up ceased
State Administration Staffing (May 2008)	Partially Implemented	Active follow-up ceased
State Boards, Committees, Commissions and Councils (February 2008)	Limited Implementation	Active follow-up ceased



Report Title (Date)	Implementation Status	Follow up Status
Bureau of Rehabilitation Services: Procurements for Consumers (December 2007)	Fully Implemented	Active follow-up ceased
Urban-Rural Initiative Program (July 2007)	Fully Implemented	Active follow-up ceased
Guardians <i>ad Litem</i> for Children in Child Protection Cases (July 2006)	Partially Implemented	Active follow-up ceased
Bed Capacity at Riverview Psychiatric Center (April 2006)	Fully Implemented	Active follow-up ceased
State-wide Information Technology Planning and Management (January 2006)	Partially Implemented	Active follow-up ceased
Review of MECMS Stabilization Reporting (December 2005)	Mostly Implemented	Active follow-up ceased
Title IV-E Adoption Assistance Compliance Efforts (November 2005)	Fully Implemented	Active follow-up ceased

Note: Implementation and follow-up are not applicable for the following OPEGA study reports as they did not contain recommendations: Communications Regarding Computer System Weakness, Cost Per Prisoner in the State Correctional System, Sales of State Real Estate; Certificate of Need; Health Care Services in State Correctional Facilities: Opportunities to Contain Costs and Achieve Efficiencies; Riverview Psychiatric Center: An Analysis of Requests for Admissions; Highway Fund Eligibility for the Department of Public Safety; and, Fund For A Healthy Maine Programs: A Comparison of Maine's Allocations to Other States and a Summary of Programs.