

24. February 2026

**The Honorable Craig V. Hickman, Senate Chair
The Honorable Anne-Marie Mastraccio, House Chair
Government Oversight Committee**

Senator Hickman and Representative Mastraccio,

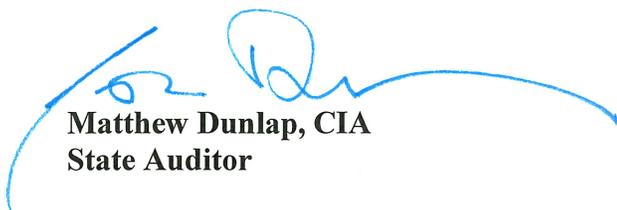
Pursuant to your request, I am attaching three documents in order to assist your understanding of our audit work in the wake of testimony provided to you by the Commissioner of the Department of Administrative and Financial Services (DAFS). It was not clear to us upon reading her written comments whether she was referencing an audit finding regarding procurement and contracts from the 2024 Single Audit Report or the 2025 Audit of the Annual Comprehensive Financial Report, so we have included both. Further, after meeting with members of the Executive, including the Commissioner where she articulated many of the same concerns aired before your committee, we offered to construct a narrative detailing how we went about our audit work according to current standards and the interactions we had along the way with agencies in question, which is also attached.

It is important to note that we endeavored on numerous occasions to meet with and review our work with personnel in the Controller's Office, Procurement, and DAFS. No follow-up was ever received from those offices; indeed, after meeting with members of the Executive in mid-December and crafting the attached narrative and following up with the offices of the Executive, no further follow-up has yet been pursued.

We must emphasize that our core mission is to assist programs and agencies in improving their processes, not to prove how much smarter we are or to expose ineptitude. We acknowledge that there are many factors that contribute to audits that result in findings of deficiencies or weaknesses, many of which are systemic and persistent—personnel shortages, rapid changes in regulations, and the like. It is not our job to make allowances, but rather to measure the conditions we find in our audit work against the backdrop of the required criteria described in policy, rule, and law.

Please advise if you have any questions.

I am and shall remain very sincerely yours,



**Matthew Dunlap, CIA
State Auditor**

(2024-015)

Title: Internal control over Office of State Procurement Services oversight procedures needs improvement

Prior Year Findings: None

State Department: Administrative and Financial Services

State Bureau: Office of State Procurement Services

Type of Finding: Material weakness

Criteria: 2 CFR 200.303; Governmental Accounting, Auditing, and Financial Reporting (GAAFR), Part 5, Section A: Internal Control; 5 MRSA 1812; 5 MRSA 1825; 5 MRSA 1973; Office of State Procurement Services (OSPS) Purchasing Policy and Operations Manual (PPOM)

The Department must establish and maintain effective internal control over Federal awards that provides reasonable assurance that the Department is managing awards in compliance with Federal statutes, regulations, and the terms and conditions of awards.

The GAAFR states that a comprehensive framework of internal control is required to obtain reasonable assurance over financial reporting.

5 MRSA 1812 outlines that the Office of State Procurement Services' (OSPS) function is to purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner to best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed. OSPS is responsible for annually updating a central database of information including, but not limited to, procurement policies, market information, technical data and demonstration project results.

5 MRSA 1825-B outlines the role of the Bureau of General Services (BGS) in purchasing, and establishing rules governing the competitive bid process, including the process to obtain waivers for noncompetitive bidding. Section (2)(c) indicates that sole source contracts must be approved through reasonable investigation by the Director of BGS.

5 MRSA 1973(5)(b) states that the Chief Information Officer shall approve the Division of Purchases' standards and evaluation procedures for standard information and telecommunications technology acquisitions and contracts.

The OSPS PPOM outlines responsibilities within and requirements of the procurement process. It states that cost or price analyses must be performed in connection with every procurement action, including contract modifications, consistent with OSPS' statutory authority to purchase collectively in a manner that will best secure the greatest possible economy. It also states that Contract/Grant Specialists must maintain a contract/order monitoring system which ensures vendors perform in accordance with the terms of the agreement/contract.

In their guidance to Departments, OSPS outlines that Low-Cost Service Contracts (LCSC) are for goods or services valued less than \$5,000. LCSC procedures do not require competitive bidding due to their low-dollar amount; no more than one LCSC can be open to any one vendor with any one Department within a 12-month period.

Condition: OSPS is responsible for overseeing the procurement of services, supplies, materials, and equipment by State agencies and departments. In accordance with 5 MRSA 1812, OSPS publishes applicable policies, procedures, and statutes related to the procurement process on its website. In addition, OSPS maintains an intranet with information, guidance, and templated forms for utilization by departments and agencies. The guidance and templated forms are intended to aid in ensuring that contracts are complete, and that required and standard terms and conditions are consistently applied.

For purchases greater than \$5,000, departments and agencies must submit a Procurement Justification Form (PJF) in conjunction with a purchase request for OSPS review and approval. In accordance with 5 MRSA 1825-B, to ensure a competitive bidding process, OSPS is responsible for reviewing and approving PJFs, and for approving the agreements that have been drafted by the department. Through this oversight and centralized review of the procurement process, OSPS is directly responsible for the purchase of all services, supplies, materials and equipment for the State.

The Office of the State Auditor (OSA) tested 45 active contracts, master agreements, and purchase orders to ensure the procurement of services, supplies, materials, and equipment were in accordance with Federal and State requirements, statutes, and policies, and identified the following:

- Of the 23 Federal contracts included in the sample, 5 did not contain required Federal Award information in accordance with regulations.
- While contracts are not considered valid until fully signed, a majority of contracts and PJFs tested were signed after the start date of the contract, ranging from 3 days to 187 days later, as follows:
 - 18 of 31 PJFs tested were signed after the contract start date.
 - 24 of 45 contracts tested were signed after the contract start date.
- In the application of sole-source justification as a waiver of the State's competitive bidding process, reasonable investigation by the Director of BGS is statutorily required; however, 16 of 31 PJFs tested were designated as sole-source and there was no documentation to support reasonable investigation by the Director occurred as required.
- One contract was approved and encumbered as a sole-source contract subsequent to work being completed. As a result, an invoice was generated prior to the start of the contract.
- Documentation to support performance of a cost analysis as required by State policy could not be provided for any of the 45 procurement actions tested.
- OSPS did not review existing LCSCs prior to approval of new contracts to the same vendor. Of the 7 LCSCs tested, 4 were to vendors already engaged in more than one LCSC with the Department within the same 12-month period, which is prohibited by State policy. One Department had 7 concurrent LCSCs with the same vendor.
- OSPS did not request or review information related to vendor performance during the contract amendment process. None of the 14 amendments tested included documentation

to support a review and determination of satisfactory vendor performance in line with terms and conditions of the existing contracts.

- Of the 8 IT-related contracts tested, 2 contracts were approved through OSPS without documentation of Office of Information Technology (OIT) review or approval as required by statute.

Context: In fiscal year 2024, the State expended approximately \$2.1 billion in contract-related payments.

Cause:

- Lack of supervisory oversight
- OSPS did not enforce existing policies and procedures to ensure that agreements are valid, in conformance with Federal and State requirements, and represent the best value for the State.

Effect:

- Contracts with incomplete or inadequate terms and conditions may not be valid.
- Noncompliance with Federal contract regulations could result in payments owed to the Federal government.
- Allowing departments to engage vendors for work prior to approved signatures on contracts creates a potential liability for the State and exposure to legal proceedings.
- Circumvention of competitive bidding could result in the need to void a contract or exposure to legal proceedings.
- Lack of cost analyses prior to contract completion does not allow OSPS to secure the best value in contracting as required by statute.
- Multiple LCSCs from a single department may allow vendors to receive State funds over \$5,000 without having to participate in competitive bidding as required.
- Amendment of contracts without a review of vendor performance may allow additional or excessive payments for unsatisfactory or incomplete work.
- Lack of OIT review on IT contracts may not secure the best value, as OIT personnel possess the subject-matter expertise needed to analyze agreements with IT vendors.

Recommendation: We recommend that OSPS increase oversight to enforce Federal and State regulations and standards and existing policies and procedures regarding review and approval of procurement documents.

Corrective Action Plan: See F-11

Management's Response: The Department partially agrees with this finding.

The Office of State Procurement Services (OSPS) disagrees with five (5) of the eight (8) findings:

1. Federal Award Information

OSPS disagrees with the OSA's claim that federal contract management is OSPS's responsibility. Based on 2 CFR 200.1, state agencies are the recipients of federal awards, while OSPS does not receive federal funds or manage program activities. Contract management in

Maine is decentralized to the State agencies. Federal award compliance is the responsibility of the award recipient.

2. Contracts and Procurement Justification Forms (PJFs) Signed After the Contract Start Date
OSPS disagrees with these findings. The dates on the PJF are clearly labeled as "Proposed Dates," intended for internal review and not indicative of finalized timelines. Contract signing and management are the responsibilities of the contracting agency, not OSPS.

3. Sole-Source Investigation Documentation

OSPS finds this exception inaccurate as it does not consider the complete Procurement Justification Form / Notice of Intent process. Agencies justify their requests in the PJF, which OSPS reviews. PJFs are publicly posted, allowing vendors to protest claims, ensuring accountability.

4. Cost Analysis Documentation

OSPS disagrees with this finding. The auditor overlooked established processes. Relevant documents often stem from formal solicitations, with rigorous cost analyses in place. The Auditor's claims rely on outdated policies. An updated Policy Manual, due for release in 2025, will clarify current practices.

5. Vendor Performance Documentation During Contract Amendments

OSPS disagrees with this finding; it relies on outdated practices. Contract management has been decentralized, and OSPS does not sign contracts or oversee vendor performance—these responsibilities lie with the agency.

OSPS partially agrees with two (2) of the eight (8) findings identified:

1. Low-Cost Service Contracts (LCSCs):

The reference to our guidance regarding LCSCs is only partially accurate. Agencies can have multiple LCSC agreements with the same vendor under certain conditions. "Stacking" avoids proper procurement processes. We review relevant documents when stacking is suspected, and two LCSC contracts from fiscal year 2023 indicate possible stacking.

2. IT-Related Contracts and MaineIT Review:

OSPS acknowledges that one IT-related contract was not reviewed by MaineIT as required. However, the other contract was signed prior to the establishment of the formal IT procurement process for LCSCs, and approval was not required at that time. Additionally, this contract falls outside the audit scope for fiscal year 2024.

OSPS agrees with one (1) of the eight (8) findings identified:

We agree an invoice was generated prior to the start of the contract. OSPS will review relevant procedures with staff to ensure compliance in the future.

Contact: David Morris, Acting Chief Procurement Officer, DAFS, OSPS, 207-624-7335

Auditor's Concluding Remarks: While Departments do have responsibility for contract administration, OSPS, as the centralized procurement office for the State, is statutorily assigned the authority and responsibility to procure goods and services that provide the best value for the State. OSPS states that it delegates many of the procurement functions to the Departments; however, OSPS cannot delegate their responsibility to provide oversight of those processes.

Therefore, to address OSPS' disagreements in Management's Response:

1. OSPS inaccurately identifies the Federal award information exception as one of contract management rather than a lack of appropriate oversight over the procurement process.
2. The dates on the PJF may be for internal use only; however, if the purpose of the PJF is to justify the existence of a contract, then it must precede the contract, which then precedes the start of any work. In our testing, 58 percent of the PJFs and 53 percent of the contracts were approved after the start of the contract.
3. OSPS asserts that the PJFs are reviewed prior to approval; however, that review does not include verification of the vendor selection or proposed cost. 5 MRSA 1825-B requires reasonable investigation related to sole-source contracts. OSPS did not provide documentation to support that they requested or reviewed any reasonable investigation in relation to all 16 of the sole-source contracts.
4. While OSPS claims that there are often rigorous cost analyses in place, OSA requested documentation for cost analysis related to all 45 of the procurement documents selected in our test, and none were provided by OSPS.
5. While the Department is responsible for overseeing vendor performance, it is OSPS' responsibility for oversight. Review of vendor performance as consideration of past vendor performance is required for the approval of contracts, which is not only a Federal regulation, but also integral to their purpose at 5 MRSA 1812 to ensure the best value for the State.

To address OSPS' partial agreements in Management's Response:

1. OSPS claims to review documents when stacking is suspected; however, OSPS could not identify the number of LCSCs awarded to each vendor. Therefore, it negates the ability to review what cannot be identified.
2. OSPS indicates that the contract is out of scope for fiscal year 2024, but OSA has been clear in communicating that the expenditure in fiscal year 2024 is directly related to the active contract. Contracts that were valid and had expenditures within fiscal year 2024 were in the population sampled.

Additionally, the decision by OSPS to deviate from its established policies and procedures once they have determined they are outdated does not relieve them of their duty at 5 MRSA 1812 to secure the best value, or the requirement at 5 MRSA 1825-B(2)(c) to document reasonable research in relation to sole source procurement.

The finding remains as stated.

(State Number: 24-0208-01)

(2024-001)

Title: Internal control over procurement card procedures needs improvement

Prior Year Findings:

FY23
2023-002

State Department: Administrative and Financial Services

State Bureau: Office of State Procurement Services

Type of Finding: Material weakness

Criteria: Governmental Accounting, Auditing, and Financial Reporting (GAAFR), Part 5, Section A: Internal Control; State Administrative and Accounting Manual (SAAM) Chapter 20; Office of State Procurement Services (OSPS) Procurement Card Policies & Procedures

The GAAFR states that a comprehensive framework of internal control is required to obtain reasonable assurance over financial reporting.

In accordance with SAAM Chapter 20, comprehensive internal controls should provide reasonable assurance that entity objectives are being met, including effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Effective internal controls prevent possible fraud, waste, and abuse from occurring.

During the fiscal year, the State engaged with two vendors to support its Procurement Card (P-Card) program. This occurred as part of a planned transition from the old vendor to a new one. Consequently, two active systems were in use simultaneously for a portion of the fiscal year: one managed by the outgoing vendor and the other by the incoming vendor. Because of the overlap, distinct policies and procedures govern the process expectations in each. The old system is governed by OSPS' Policies & Procedures (May 2023 Revision) and the new system is governed by OSPS' Policies & Procedures (December 2023 Revision).

OSPS P-Card Policies & Procedures (May 2023 Revision) outline that:

- except in rare and unusual circumstances, P-Card purchases may not exceed the maximum single transaction limit, or the maximum billing cycle spending limit established by OSPS.
- any exceptions to policies must be requested in writing by OSPS personnel, namely the P-Card Administrator and/or the buyer. Invoices exceeding \$5,000 for membership dues and subscription fees can be considered for payment via P-Card by special request from the agency and approval by OSPS.
- the billing cycle for the State's P-Card program is a two-week period. Procedures over the billing cycle begin with OSPS' receipt of a bimonthly online statement which includes all P-Card expenditures for the period. OSPS pays the full amount due the day after the cycle ends. The General Government Service Center (GGSC) bills the departments and service centers through the creation of an internal receivable in the State's accounting system.

Departments and service centers are required to submit expense reports, receipts, and other supporting documentation to process internal payments against these outstanding receivables. The receivable must be paid within five business days of receipt.

OSPS P-Card Policies & Procedures (December 2023 Revision) outline that:

- except in rare and unusual circumstances, P-Card purchases may not exceed the maximum single transaction limit, or the maximum billing cycle spending limit established by OSPS.
- there are four categories of P-Cards that can be issued to qualified State employees: General Use, Travel/Executive, Emergency Response, and Special Use. Each category P-Card issued has specific single transaction limits and maximum billing cycle limits with the General Use category being the lowest.
- for requests beyond the General Use P-Card, a written use case/demonstrated need is required to be submitted by the agency P-Card Coordinator, for review by the Chief Procurement Officer or Deputy Chief Procurement Officer for approval in advance of submitting an online application or for receiving a temporary limit increase.
- the billing cycle for the State's P-Card program is a two-week period. Procedures over the billing cycle begin with OSPS' receipt of a bimonthly online statement which includes all P-Card expenditures for the period. OSPS pays the full amount due the day after the cycle ends. GGSC bills the departments and service centers through the creation of an internal receivable in the State's accounting system. Departments and service centers are required to submit expense reports, receipts, and other supporting documentation to process internal payments against these outstanding receivables. All reference to a time frame for which the outstanding receivable must be paid was removed in the Policies & Procedures (December 2023 Revision).

Condition: The Office of the State Auditor (OSA) performed data analysis over all fiscal year 2024 P-Card transactions. This analysis identified transactions across 44 unique State agencies that exceeded the maximum single transaction limit. OSPS could not provide documentation that appropriate oversight was performed for three transactions exceeding the single transaction limit. Specifically, these transactions lacked the requisite written approvals that would serve as exceptions to OSPS policy. In addition, these transactions were incurred utilizing P-Cards with historically heightened maximum single transaction limits; however, OSPS could not provide documented approval for these limit adjustments.

In 43 of the 44 transactions tested, documentation could not be provided to support that oversight of P-Card billing cycle procedures was performed. While it is GGSC's operational responsibility to ensure that accounting functions are performed, OSPS could not provide evidence of monitoring or verification that P-Card interagency billings were paid in a timely manner (within five business days of receipt for those transactions processed through the old vendor) and included appropriate support.

Context: In fiscal year 2024, the State's P-Card purchases totaled approximately \$29.2 million. P-Card purchases over the single transaction limit for the old and new vendors accounted for approximately \$1.5 million and \$12 million, respectively, of the \$29.2 million total.

Cause:

- Lack of supervisory oversight
- Lack of resources

Effect: Without adherence to established policies and procedures or effective internal controls, fraud, waste, or abuse may not be prevented or detected.

Recommendation: We recommend that OSPS:

- increase oversight and monitoring of P-Card spending limits and transactions.
- maintain documented approval for all exceptions to policy.
- enhance oversight to ensure that departments and service centers are adhering to OSPS P-Card policies and procedures.

Corrective Action Plan: See F-XX

Management's Response: The Department partially agrees with this finding. The only way for per transaction or spending limits to be changed on a P-card is for a Procurement Services employee to update those limits with the P-card vendor. Therefore, all limit exceptions go through an approval process within Procurement Services prior to being changed. However, for the 3 transactions identified, we were unable to produce written, explicit documentation of the source of the approval. These exceptions occurred prior to the creation of our new tracking log. The previous system to document information about approvals was based on email and telephone calls, records of which can be difficult to track. In some cases, this was due to the "emergency" nature of the request; in some cases, these were related to P-cards with "historically heightened" limits due to the unique purchasing needs of the employee's work, for example, aircraft fueling or repair expenses for the state fleet, where previously approved limits were carried forward based on the position when there was employee turnover. Procurement Service's new tracking log has addressed this concern by logging both the request and the approval in one repository.

Procurement Services has no role related to the processing or enforcement of inter-agency billing or collections/payment of invoices. This is best practice based on internal controls and segregation of duties between providing the ability to make purchases, and actual payment of invoices. The 5-day payment requirement was never intended to be enforced by Procurement Services but was included in the policy to provide a holistic understanding of P-card processing.

Contact: David Morris, Acting Chief Procurement Officer, DPS, 207-624-7335

Auditor's Concluding Remarks: OSPS, with the support of the Office of the State Controller (OSC), developed a historical usage analysis to justify spending limits at the cardholder level. While this quantitative approach offers a structured basis for setting limits, it does not adequately consider qualitative factors, particularly those arising from the lack of oversight over required transactional support. Given that much of the documented support for P-Card transactions is only available during the interagency billing process – beyond OSPS' stated purview – it is indeterminate how the spending limits could be justified based solely on historical transaction amounts.

OSPS' Management Response highlights the intended roles and responsibilities related to procurement services and interagency billing processes; however, this issue is not one of segregation of duties but rather one of oversight and administration. OSPS administers the P-Card program, develops associated policies, and retains responsibility for program oversight and administration. While departments and service centers are tasked with executing the policy, the responsibility for ensuring that documented control activities are implemented and monitored to mitigate the risks of fraud, waste, and abuse in the program ultimately rests with OSPS. These control activities, which are embedded in the policy, serve as critical safeguards and must be actively enforced and monitored to maintain program integrity. Furthermore, OSPS' response that they alone retain the ability to alter spending limits, along with their abilities to issue cards and take enforcement actions, reinforces their role as the primary oversight authority.

The finding remains as stated.

(State Number: 24-0208-02)

(2025-009)

Title: Internal control over procurement and contract payment procedures needs improvement

Prior Year Findings:

FY24
2024-015

State Department: Administrative and Financial Services
Health and Human Services
Labor
Professional and Financial Regulation

State Bureau: Office of State Procurement Services
Maine Center for Disease Control & Prevention
Office of Aging and Disability Services
Office of Child and Family Services
Office of MaineCare Services
Office of Substance Abuse and Mental Health Services
Rehabilitation Services
Board of Nursing
Board of Licensure for Professional Engineers

Type of Finding: Significant deficiency

Criteria: 2 CFR 200.303; Governmental Accounting, Auditing, and Financial Reporting (GAAFR), Part 5, Section A: Internal Control; 5 MRSA 1812; 5 MRSA 1819; 5 MRSA 1825; Office of State Procurement Services (OSPS) Purchasing Policy and Operations Manual (PPOM)

The Department must establish, document, and maintain effective internal control over Federal awards that provides reasonable assurance that the Department is managing awards in compliance with Federal statutes, regulations, and the terms and conditions of awards.

The GAAFR states that a comprehensive framework of internal control is required to obtain reasonable assurance over financial reporting.

5 MRSA 1812 outlines that OSPS' function is to purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner to best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed. OSPS is responsible for annually updating a central database of information including, but not limited to, procurement policies, market information, technical data and demonstration project results.

5 MRSA 1819 defines an unlawful purchase and describes the penalty for approving unlawful purchases. Any purchase of services, supplies, materials or equipment contrary to purchasing law or the rules and regulations adopted under purchasing law, that contract is void and has no effect.

5 MRSA 1825-B outlines the role of the Bureau of General Services (BGS) in purchasing, and establishing rules governing the competitive bid process, including the process to obtain waivers for noncompetitive bidding. Sole-source contracts must be approved through reasonable investigation by the Director of BGS, and contractually required reports must be written and retained by the applicable Department.

The OSPS PPOM outlines responsibilities within and requirements of the procurement process. It states that:

- cost or price analyses must be performed in connection with every procurement action, including contract modifications, consistent with OSPS' statutory authority to purchase collectively in a manner that will best secure the greatest possible economy.
- Contract/Grant Specialists must maintain a contract/order monitoring system which ensures vendors perform in accordance with the terms of the agreement/contract.
- a Notice of Intent to Waive Competitive Bidding (NOI) is required for all procurements over \$10,000 that are being carried out without a competitive process. The NOI consists of the fully signed Procurement Justification Form (PJF) that is required to be uploaded to the public OSPS website for a minimum of seven days before the start of the contract.

Condition: OSPS is responsible for overseeing the procurement of services, supplies, materials, and equipment by State agencies and departments. In accordance with 5 MRSA 1812, OSPS publishes applicable policies, procedures, and statutes related to the procurement process on its website; however, the comprehensive PPOM has not been formally updated since 2015. In addition, OSPS maintains an intranet with information, guidance, and templated forms for utilization by departments and agencies. The guidance and templated forms are intended to aid in ensuring that contracts are complete, and that required and standard terms and conditions are consistently applied.

For purchases greater than \$10,000, departments and agencies must submit a PJF in conjunction with a purchase request for OSPS review and approval. In accordance with 5 MRSA 1825-B, to ensure a competitive bidding process, OSPS is responsible for reviewing and approving PJFs, and for approving the agreements that have been drafted by the department. Through this oversight and centralized review of the procurement process, OSPS is directly responsible for the purchase of all services, supplies, materials and equipment for the State.

The Office of the State Auditor (OSA) tested 57 active contracts, master agreements, and purchase orders to ensure the procurement of services, supplies, materials, and equipment were in accordance with Federal and State requirements, statutes, and policies, and identified the following:

- 36 contracts and 26 PJFs tested were not signed at least 14 days prior to the contract start date as required by OSPS policy, including:
 - 24 contracts and 21 PJFs were signed after the contract start date, up to 220 days and 360 days later, respectively;
 - 1 contract and 3 PJFs were signed the same day the contract started; and
 - 11 contracts and 2 PJFs were signed before the contract started, but not at least 14 days prior to the start date.

- In the application of sole-source justification as a waiver of the State’s competitive bidding process, reasonable investigation by the Director of BGS is statutorily required; however, 18 PJFs tested were designated as sole-source and there was no documentation to support reasonable investigation by the Director occurred as required. Of the 18 Department-identified sole-source PJFs:
 - 6 were reclassified and treated as other procurement types that do not require public posting without documented rationale.
 - 12 were ultimately treated as sole-source, but for 11 of the 12, documentation could not be provided to validate that NOIs were publicly posted before the contract started as required by OSPS policy; some as late as 8 months into the contract period.
- Documentation to support performance of a cost analysis as required by OSPS policy could not be provided for 41 contracts.
- 11 contracts contained amendments; however, OSPS did not request or review information related to vendor performance during the contract amendment process. None of the 11 amendments tested included documentation to support a review and determination of satisfactory vendor performance in line with terms and conditions of the existing contracts.
- 1 contract was approved with a requirement that the deliverable report be provided verbally, resulting in a contract term that did not comply with 5 MRSA 1825’s requirement for a written report.

In addition, OSA tested 80 procurement-related payments to ensure the payments were made in accordance with Federal and State requirements, statutes, and policies. Exceptions were identified in 16 of the 80 payments tested, as follows:

- 9 payments were processed despite incomplete annual on-site vendor reviews as required by the underlying contract. Of the 9 payments:
 - 7 were processed without documentation that an on-site review was conducted, and
 - 2 were processed with evidence that an on-site review was conducted, but the documentation did not adhere to requirements.
- For 6 contract payments, no documentation could be provided to support the consideration of contract terms and conditions, including required contractual deliverables and performance measures, prior to payment processing.
- Contractually required performance measures documentation could not be provided for 3 contract payments; the performance measures reports were not requested, retained, or reviewed.
- Department personnel responsible for approving 2 contract payments could not provide the underlying master agreement’s negotiated rates.

Context: In fiscal year 2025, the State expended approximately \$1.6 billion in contract-related payments.

Cause:

- Lack of due diligence
- Lack of understanding of the responsibilities between departments and OSPS
- Lack of adequate policies and procedures, including documentation of monitoring and oversight procedures

- OSPS did not enforce existing policies and procedures to ensure that agreements are valid, in conformance with Federal and State requirements.

Effect:

- Contracts with incomplete or inadequate terms and conditions may not be valid.
- Noncompliance with Federal and State procurement requirements and contract regulations could result in questioned costs or disallowances.
- Allowing departments to engage vendors for work prior to approved signatures on contracts creates a potential liability for the State and exposure to legal proceedings.
- Circumvention of and/or noncompliance with competitive bidding policies, including NOI posting requirements, could result in the need to void a contract or exposure to legal proceedings.
- Lack of cost analyses prior to contract completion does not allow OSPS to secure the best value in contracting as required by statute.
- Lack of enforcement of contract reporting requirements prior to payment processing increases the risk of payments for unsatisfactory or incomplete work and undetected vendor noncompliance.
- Amendment of contracts without a review of vendor performance may allow additional or excessive payments for unsatisfactory or incomplete work.
- Unsupported payments may be approved, increasing the risk of overpayments, unallowable costs, or improper use of funds, and payments made for incomplete, late, or deficient products or services.

Recommendation: We recommend that OSPS increase oversight to enforce Federal and State regulations and standards and existing policies and procedures regarding review and approval of procurement documents. We further recommend that Departments enhance monitoring and documentation to ensure that contractual terms, deliverables, and performance measures are verified and documented as required before disbursement of procurement-related payments.

Management’s Response:

DAFS Response: The Department disagrees with this finding.

To clarify the “**Context**,” which currently reads, “In fiscal year 2025, the State expended approximately \$1.6 billion in contract-related payments,” we provide the following stratification of the population from which the transactions were selected:

<u>Procurement Category</u>	<u>FY25 Expense (millions)</u>
Services	\$442,428
Commodities	\$157,355
Materials (Highway)	\$60
Equipment	\$174,734
Grants	<u>\$768,899</u>
Total	<u>\$1,534,477</u>

Each of these strata are subject to differing procurement rules. For example, a significant amount of “Grants” are formula grants or statutorily directed funding, not subject to competition; a significant amount of “Commodities” purchases are related to Master Agreements negotiated directly by OSPS or as participating addenda to agreements negotiated by NASPO ValuePoint, which is a cooperative purchasing program facilitating public procurement solicitations and agreements using a lead-State model. Consequently, each issue identified in this finding should be considered in relation to those strata, not combined under one system or process umbrella.

1) 36 contracts and 26 PJFs tested were not signed at least 14 days prior to the contract start date as required by OSPS policy - This finding is misassigned to OSPS. The State of Maine operates under a hybrid procurement model whereby State agencies and OSPS share procurement responsibilities. The execution of contracts is controlled by the contracting signatories at the agency level where scope and specifications, solicitation parameters, award evaluations, and contract negotiations occur according to OSPS policy and procedure. To support the consistent application of procurement policies and procedures within this hybrid model, OSPS provides extensive, ongoing training to agencies, covering evolving requirements, procedural updates, and process improvements. OSPS is so committed to this responsibility that a full-year FTE position was created specifically to develop, deliver, and continuously update procurement training materials and guidance for both OSPS staff and agency partners. Regarding contract dates: OSPS does not allow or give approval for vendors to work at risk; nor does OSPS have statutory authority to further delay the execution of agency contracts with vendors already working at risk. To do so would only exacerbate the situation, increasing liability risks and may run afoul of agency statutory and federal responsibilities. OSPS has little insight into agency activities prior to submission for review within the State’s accounting system after contract execution. Furthermore, functioning under the State’s hybrid procurement structure, most agencies have statutory authority/responsibility to execute, administer, and manage their contracts; and yet others have legislatively established authority to conduct procurement or grant activities independent of OSPS statute and rule. For example: DHHS statute establishes their independent authority/responsibility for timely contract execution and renewal pursuant to 22-A MRSA 207. However, OSPS supports and encourages OSA to directly address the agencies engaged in delayed contracting for the same concerns listed in this communication. Secondly, the signature of the coversheet will not always correlate with the contracting dates as contracts are negotiated and executed prior to submission into our State’s ERP system for OSPS review and approval. As a third point, the 14 days is a recommendation to allow for OSPS review and processing time as our review process will not be circumvented due to agency tardiness. Lastly, in a departure from historic OSA practice, the numbers portrayed as Fiscal Year 2025 are statistically misrepresented and inaccurately framed. Of the purported 36 contracts listed in this finding, 23 are documents from previous fiscal years linked to the contract document number (up to 5 years ago), 7 of which were signed on or before the contract date, 2 are delivery orders (based on master contracts) which require no signature, and 1 was a blanket contract for therapist reimbursements which was signed from the previous fiscal year.

2) 18 PJFs tested were designated as sole-source and there was no documentation to support reasonable investigation by the Director occurred as required - All PJFs are subject to thorough qualitative and contextual review by OSPS staff, in conjunction with the associated contracting documents. The OSPS approval signature serves as verification that the submission

meets required review standards. In instances where an agency provides incomplete or substandard information, OSPS responds by requesting additional information/documentation for verification purposes or may reject the PJF. Secondly, the document rationale for each classification is reflected and defined in the PJF guidance document. The PJF and contract documents are reviewed for efficacy, rejected if not appropriately designated, or approved based on provided information.

Dates of NOI public postings were provided to the auditor. The execution of contracts is controlled by the contracting signatories at the agency level where scope and specifications, solicitation parameters, award evaluations, and contract negotiations occur. The 6 documents described as reclassified were comprised of 2 statute-directed (student IEP team directed schools), 1 agency grant exempt from OSPS oversight, 1 grant-directed (Good Shepherd Food Bank), 1 University Cooperative under the authority of 5 MRSA 1825-B (E), and 1 extension to multiple vendors (5 substance abuse centers) through legislative funding. It is important to note that 8 of the 18 cited documents for this FY2025 audit are from prior years dating back to 2020.

3) Documentation to support performance of a cost analysis as required by OSPS policy could not be provided for 41 contracts - A) the referenced 2015 manual is no longer authoritative. It has been superseded by multiple policies, procedures, training materials, and organizational changes implemented through subsequent OSPS reorganizations and decentralization of functions. As such, the condition cited in the finding does not represent noncompliance with current requirements. B) The statement relies on evidence that is not representative of the FY 2025 environment. The finding is based on information (such as a 2015 job description) from an earlier process that no longer reflects the present structure nor established procurement practices. By relying on evidence outside the applicable period and disregarding current processes, the conclusion does not accurately characterize OSPS/agency shared control structure or operations. C) This finding is misleading as it fails to identify or acknowledge that 13 of the listed 41 were awarded based on a competitive process or determined by a specific grant funding formula; another 26 of those reviewed were outside the fiscal year dating back to 2020. One was a Low Cost Service Contract issued, below the statutory threshold, at agency discretion, and, lastly, one was compared to market rates for previous event and sponsorship activities.

4) 11 contracts contained amendments; however, OSPS did not request or review information related to vendor performance during the contract amendment process. None of the 11 amendments tested included documentation to support a review and determination of satisfactory vendor performance in line with terms and conditions of the existing contracts – Under the State’s hybrid procurement model, OSPS and State agencies share contracting responsibilities. The distribution of these procurement functions is necessary and, given the volume of transactions and the specialized technical knowledge held by agencies, a hybrid model is the only practical and effective choice. As such, agencies have the statutory authority/responsibility to enter into/administer contracts. Performance is a component of the agency administration of their contracts required as contract signatories. It is implied in the proposed amendment that performance was sufficient to warrant a continued relationship. Although there may not be specific documentation that says the agency evaluated performance and deemed it satisfactory, there are other indications to support that it was considered satisfactory. A) the referenced 2015 manual is no longer authoritative. It has been superseded by multiple policies, procedures, training materials, and organizational changes implemented through

subsequent OSPS reorganizations and decentralization of functions. As such, the condition cited in the finding does not represent noncompliance with current requirements. B) The statement relies on evidence that is not representative of agency contract management during FY 2025. The finding is based on information from an antiquated process that no longer reflects OSPS's established procurement practices. By relying on evidence outside the applicable period and disregarding current processes, the conclusion does not accurately characterize OSPS' and agencies' present control structure or operations.

5) One contract was approved with a requirement that the deliverable report be provided verbally, resulting in a contract term that did not comply with 5 MRSA 1825's requirement for a written report – This finding is accurate and has been addressed through targeted retraining on reviewing agency contract documents for subtle language changes. Looking ahead, we expect opportunities to leverage AI-assisted comparison tools to detect minor contract alterations and other errors, which would help reduce the types of issues that can occur under manual review.

OSPS Summary Statement

During the audit communication phase, OSPS completed an initial, contract-by-contract review and provided detailed explanations; however, those explanations were not incorporated into the revised drafts. Our review identified several systemic concerns within the three versions of finding communications, including reliance on non-authoritative and superseded guidance (such as the 2015 PPOM and outdated job descriptions used as policy criteria), inaccurate characterizations of OSPS review processes, use of non-representative or period-incorrect transactions, misunderstanding of operational recommendations as formal policy, and the misassignment of Accounts Payable responsibilities to OSPS despite the State's segregated control structure. Collectively, these inaccuracies lead to erroneous conclusions that do not reflect current procurement practices under the State's hybrid model.

Although the audit approach and presentation of contracting activities represent a significant departure from historical practice and has created notable challenges in the review-response process, we do recognize opportunities to further strengthen clarity, enhance documentation detail, and reduce potential misinterpretation moving forward. The evaluation also underscores the importance of clearly communicating how Maine's hybrid procurement model operates effectively without the organizational structure or staffing levels of a fully centralized system.

OSPS proposes the following targeted improvements:

- 1. Standardizing Agency Cost Narrative Requirements for the PJF Document**

Inconsistencies were the result of variable agency documentation practices within the existing single PJF format. To remove ambiguity and prevent future misinterpretation, OSPS will establish standardized, mandatory cost narrative elements that clearly define what agencies must document when justifying price reasonableness, aligned with present-day policy. This clarification strengthens OSPS's existing review processes and ensures that cost narratives accurately reflect the shared responsibility of the hybrid procurement model and current operating structure.

- 2. Modularize the Draft Policy Manual**

Current reference, training, and guidance materials reflect continued advancements in procurement policy since the 2015 PPOM cited by OSA, and we agree these evolving updates have not yet been consolidated into a single document. Rather, changes have

occurred in response to ongoing operational needs, including new technologies, organizational restructuring, statutory updates, and external oversight such as OPEGA reviews. To more effectively communicate current requirements, OSPS will transition from a single manual to sequential modules covering policy, procedure, and role-specific responsibilities, released in phases aligned with operational changes. This modular approach allows for timely updates, supports transparency, prevents reliance on outdated guidance, and clearly delineates roles and responsibilities between agencies and OSPS.

3. Provide OSA With LMS Certification Training

To avoid reliance on brief entrance meetings or outdated materials, neither of which effectively educates auditors on complex procedure and process, OSPS will grant OSA auditors access to our procurement certification training tracks within the LMS in advance of the audit season. This will facilitate the proper understanding of current policy, procedure, and practice.

DAFS Contact: David Morris, Acting Chief Procurement Officer, OSPS, DAFS, 207-624-7335

DHHS Response: Due to the timing of when DHHS was notified of these audit exceptions, the number of bureaus involved, and the response deadline, DHHS currently cannot agree or disagree with this finding. These potential exceptions have been noted and will be addressed.

DHHS Contact: Anthony Madden, Deputy Director of Audit, DHHS, 207-287-2834

DOL Response: The Department disagrees with this finding. The Department of Labor has one procurement-related payment included in this finding and disagrees with the statement that no documentation was provided. The Department provided detailed information for the selected payment, including specific cost categories, monthly progress reports for the six service areas, and the applicable quarterly status report.

DOL Contact: Kimberly Smith, Deputy Commissioner, DOL, 207-621-5095

PFR Response: The Department disagrees with this finding. For the two payments identified, the rates used were reviewed and confirmed to be accurate as evidenced by the signature on the invoices. While the Service Level Agreement with the underlying master agreement's negotiated rate was not immediately available at the time of review, this documentation is not the primary control used to ensure the accuracy of contract payment rates. The Department has established controls that provide reasonable assurance that the correct rates are consistently applied. Rate validation is performed by trained and knowledgeable supervisory level staff who are familiar with the long-standing rate structure, which has remained unchanged for many years. Additionally, rates are available on the daily Batch Reports within the Regulatory Licensing & Permitting site.

PFR Contact: Rachel Hendsbee, Director of Administrative Services, PFR, 207-624-8500

Auditor's Concluding Remarks: In response to OSPS' additional stratification of fiscal year 2025 contract-related expenditures by procurement category, this does not alter the basis for the finding or the conclusions reached. The audit scope and testing were not premised on the

assumption that all procurement categories are subject to identical statutory or policy requirements. Rather, OSA evaluated whether applicable Federal and State statutes, rules, and OSPS policies were followed within the context of the specific procurement method applicable to each contract tested, including sole-source procurements, master agreements, and contract amendments. Furthermore, OSPS could not provide complete, supported population data identifying procurement characteristics that would allow further disaggregation of risk or exceptions. Accordingly, audit testing focused on whether required documentation was requested, reviewed, or retained for each item tested, consistent with applicable statutes, rules and policies, not by applying a single procurement standard across all categories.

As described in the Condition, OSPS' statutorily required role includes centralized oversight of procurement activities and enforcement of applicable requirements, regardless of whether procurement authority is exercised directly by OSPS or delegated to departments under specific circumstances. OSPS' stratification does not address the primary focus of this finding, which is oversight and internal control related to compliance with specific requirements for procurement.

In response to 1) outlined in OSPS' Management's Response, OSA acknowledges that agencies are responsible for developing scopes, negotiating terms, and executing contracts at the agency level; however, OSPS' statement that they operate under a hybrid model does not negate their statutory responsibilities for central oversight, nor does it relieve OSPS of the responsibility to enforce compliance with procurement requirements once contracts and procurement justifications are submitted to OSPS.

This finding does not assert that OSPS authorizes vendors to work at risk, nor does it suggest that OSPS should delay contract execution where vendors have already begun work. Rather, the focus of the finding is that OSPS approved contracts and PJFs that were executed after the contract start dates, or within a timeframe that did not comply with OSPS policy, without documented evidence of escalation, corrective action, or enforcement. OSPS' assertion that it has "little insight" into agency activities prior to submission into the State's accounting system further supports, rather than refutes, the basis for the finding. Once contracts and PJFs are submitted for OSPS review and approval, OSPS has both the opportunity and responsibility to enforce compliance with procurement requirements, including execution timing, justification, and documentation standards. This finding is appropriately assigned to OSPS because it relates to OSPS' oversight and enforcement controls, not the operational conduct of individual agencies.

Regarding OSPS' assertion that the contracts are "statistically misrepresented" or "inaccurately framed" as fiscal year 2025 activity, OSA's testing focused on contracts and PJFs that were active, amended, or connected to State expenditures verified as reported by the Office of the State Controller in the Annual Comprehensive Financial Report for fiscal year 2025. Additionally, delivery orders and blanket contracts were evaluated based on applicable policy requirements and supporting documentation at the time of audit testing. When contracts originated in prior years, OSA appropriately evaluated subsequent procurement actions such as amendments, funding increases, extensions, and continued payment activity that occurred during the audit period.

OSPS cites 22-A M RSA 207 as an example of statutory authority that establishes independent agency responsibility for contractual execution and renewal and suggests that such authority limits

OSPS responsibility for procurement compliance. This statute, in the context of the State's broader procurement framework, does not relieve OSPS of its statutory responsibilities in the procurement process. Agency-specific statutes that authorize departments to carry out programs or enter into agreements establish what a department is permitted to do; they do not eliminate or override how those activities must be conducted under applicable State laws. While OSPS encourages OSA to address agencies directly regarding delayed contracting, the audit's objective is to assess whether the State's overall statutorily directed, centralized procurement oversight framework is adequately designed and implemented. The finding identifies systemic control weaknesses whereby procurement actions that do not comply with State, Federal, and OSPS requirements are approved without documented resolution or consideration.

In response to 2) outlined in OSPS' Management's Response, the audit finding does not question whether OSPS personnel review submissions or exercise professional judgement. The finding identifies that OSPS did not consistently request, review, or retain documentation sufficient to support the claims made by departments on PJFs. OSPS utilizes department claims as the primary basis for determining the procurement method, including whether a procurement is treated as sole-source or subject to competitive bidding. Department claims such as assertions regarding vendor uniqueness, lack of reasonable alternatives, statutory direction, or exemption from competition directly determine whether competitive bidding requirements qualify to be waived. These claims are subject to determination; therefore, OSPS responsibility extends beyond form review and signature approval. It requires verification and documentation to support the factual basis of those assertions, particularly when approving a sole-source procurement that circumvents competitive bidding.

For the 18 PJFs tested that were designated sole-source, OSPS could not provide documentation demonstrating that it requested or evaluated evidence to substantiate departmental claims, nor documentation evidencing that a reasonable investigation by the Director of the Bureau of General Services occurred, as required by 5 MRSA 1825-B. An approval signature alone does not demonstrate that information was reviewed and relied upon, what alternatives were considered, or how the determination was valid.

The requirement to publicly post a Notice of Intent to Waive Competitive Bidding (NOI) before a contract begins is intended to provide the public and potential vendors with advance notice and an opportunity to challenge or respond to a proposed waiver of competition before the State becomes contractually or operationally committed. Posting a NOI after contract execution, or after services have commenced, undermines the purpose of the NOI. Once a contract has started, the State's leverage to reconsider the procurement method, assess alternative vendors, or correct an improper sole-source designation is significantly diminished.

In response to 3) outlined in OSPS' Management's Response, OSPS has repeatedly stated that the 2015 Purchasing Policy and Operations Manual (PPOM) is no longer authoritative; however, despite multiple requests during the audit, OSPS did not provide a successor comprehensive policy document that provides consolidated mapping of applicable State and Federal procurement requirements to current OSPS policies, procedures, and assigned responsibilities. In addition, while OSPS references multiple policies, trainings, and organizational changes implemented since 2015, there is no evidence that these changes have been formally communicated in a unified

method to departments and agencies. Furthermore, OSA's findings are not based on the 2015 PPOM as standalone or exclusive authority. The PPOM was referenced as part of the control environment in effect during the audit period, in conjunction with governing statutes, Federal requirements, and internal control standards. Effective internal control requires that management establish, document, and communicate policies and procedures in a manner that enables consistent execution and accountability. A decentralized or hybrid procurement model increases the need for clear, authoritative documentation that defines roles, responsibilities, and required evidentiary support.

OSPS asserts that certain contracts were awarded through competitive process or based on a specific grant funding formula; however, this characterization was not documented as part of OSPS' review at the time of procurement approval. In addition, under OSPS policy, a PJF designated as "grant" procurement is premised on the condition that the vendor is specifically named in the grant award, thereby exempting the procurement from competitive bidding requirements. OSPS did not request, review, or retain documentation verifying that the vendor listed on the PJF was the entity specifically named in the grant award. OSPS' characterization of certain contracts as competitive or grant-based does not resolve the exceptions noted in the finding. The finding is based on what was reviewed, verified, and documented at the time of OSPS approval, not based on subsequent explanations in response to audit inquiries.

In response to 4) outlined in OSPS' Management's Response, for the OSPS-related finding area, the deficiency is not whether agencies possess operational knowledge of vendor performance, but whether OSPS exercised oversight by requesting, reviewing, or retaining evidence that vendor performance was satisfactory before approving contract amendments. OSPS asserts that continued amendments imply satisfactory performance and that "other indications" exist to support that conclusion; however, effective internal control requires documented evidence. Without documented evidence, neither OSPS nor the agencies can demonstrate that contract amendments are supported by actual performance results.

OSPS' assertion that the audit evidence is not representative of fiscal year 2025 practices is not supported by documentation. The contracts and amendments tested were active during the audit period, and OSPS was unable to provide documentation demonstrating that vendor performance was reviewed as part of the amendment renewal process. The lack of documentation during fiscal year 2025 is the condition identified and reflects the current control environment, not an "antiquated" process.

In response to OSPS' Summary Statement in Management's Response, OSA disagrees that findings and conclusions were the result of reliance on non-authoritative guidance, misunderstandings of the State's hybrid procurement model, or mischaracterization of OSPS' role. The findings reflect conditions, supported by testing, evaluated against applicable statutes, Federal requirements, and OSPS' own articulated control expectations as documented during the audit period. In addition, the absence of such authoritative replacement does not negate statutory requirements or internal control obligations. From both a State and Federal perspective, fragmentation of guidance without clear mapping or formal adoption increases the risk of inconsistent application and weakens accountability. The finding focuses on OSPS' statutory and control responsibilities, where OSPS approval serves as a control over procurement method

selection, contract execution, and compliance with competitive bidding requirements. The audit evidence demonstrated that OSPS approval was routinely granted without requesting, reviewing, or retaining documentation to substantiate assertions made by departments, including sole-source justifications, cost or price analyses, and reasons for delayed posting of NOIs. OSA does not assert that OSPS performs accounts payable functions. Findings related to testing specific procurement-related payments were directed to the individual departments that disbursed payments to those vendors.

OSPS' proposed improvement initiatives reinforce, rather than contradict, the audit conclusions. The need to standardize documentation, consolidate guidance, and improve shared understanding underscores the core finding that existing controls and documentation practices were not sufficient during the audit period to provide reasonable assurance of compliance. Although the targeted improvements outlined in Management's Response, including enhanced training and automated tools, may strengthen future reviews, they do not replace the need for consistent application of statutory requirements and oversight controls designed to ensure that contract terms conform to law at the point of approval.

In regard to the other agency responses within Management's Response, all audit conclusions are based on documentation requested and evaluated during fieldwork, direct communication with department personnel involved in the tested transactions, and evidence available at the time of audit testing, not on subsequent remediation or internal review efforts. OSA began requesting supporting documentation and explanations for contract and procurement testing on November 8, 2025, and continued those requests throughout the fieldwork period.

The Office of the State Auditor's objective is to assess whether the State's overall statutorily directed, centralized procurement oversight framework is adequately designed and implemented. The finding identifies systemic control weaknesses whereby procurement documents that do not comply with State, Federal, and OSPS requirements are approved without documented resolution or consideration.

The finding remains as stated.

(State Number: 25-0208-02)