**Additional Public Comments on**

**ASPIRE Rule #25P - Working Cars for Working Families Program**

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Submitted by:

Julie Dumont Rabinowitz
Director of Policy and Communication
Maine People Before Politics
P.O. Box 393
Augusta, ME 04332
Julie@mainepbp.com
Phone/Fax: (207) 292-2722

Maine People Before Politics has already submitted comments on the draft rules. However, the Department's posting of the Request for Proposals (RFP# 202006105, Working Cars for Working Families) has prompted a second review in light of the new information provided about the program within the RFP itself. There are a number of inconsistencies between the draft rules and the RFP, and there are a number of areas in the RFP that have no corresponding authority for their structure within either the statute or the draft rules.

Therefore, MPBP raises the following additional concerns in this public comment period.

1. Contract dates exceed the statutory authorization for the Department to provide services:

Statute:

**"§3769-F. Working Cars for Working Families Program**

"There is established within the department the Working Cars for Working Families Program in order to help families receiving TANF benefits or benefits under the Parents as Scholars Program and families that are financially eligible for alternative aid under section 3763, subsection 8 to obtain or retain sustainable employment by providing them with access to reliable, affordable transportation. In fiscal year 2017-18, the department shall adopt rules establishing program eligibility, participation and administration requirements. From fiscal year 2018-19 to fiscal year 2021-22, the department shall use $6,000,000 in funds provided under the TANF block grant and accrued prior to fiscal year 2017-18 to fund the program. This section is repealed July 1, 2022."

From the RFP:

| **Anticipated Contract Periods** | | |
|---|---|---|
| **Period** | **Start Date** | **End Date** |

| | | |
|---|---|---|
| Initial Period of Performance | October 1, 2020 | September 30, 2022 |

2. The rules require 30-day title transfer to the participant: "To the extent reasonably practicable, the Department shall transfer title to all vehicles provided to program participants within thirty (30) calendars days of vehicle distribution," yet RFP requires 90 day transfer.

3. Note that this requirement regarding title transfer in the rules does not transfer the title upon program graduation, after the premiums have been paid; it specifically states that the transfer is after "vehicle distribution," which seems to indicate delivery to the participant upon payment of the down payment, not program graduation. Transferring the title prior to program completion complicates repossession efforts because the participant has title—ownership under the law—to the vehicle. Any repossession attempt would have to recover both the vehicle and the title, which would not be in the state's name if it was transferred to the participant. Also, having the title allows the vehicle to be easily sold or transferred to someone else without the agency's authorization (although in violation of the agreement).

4. The RFP appears to conflict with the draft rules regarding the purpose for and the use of the payments. The rules state that in Section VII. PARTICIPATION AND CONTINUED ELIGIBILITY REQUIREMENTS: "A commitment to make monthly premium payments timely and in-full, as described in Subsection VII (C);"

And then in C.:

C. "Additional Vehicle Access Provisions –
   1. To the extent reasonably practicable, the Department shall transfer title to all vehicles provided to program participants within thirty (30) calendars days of vehicle distribution. Prior to transferring title, in addition to determining that the participant has met all relevant eligibility criteria, the Department must—
      a. Determine that, without assistance from the Department, the participant is financially able to pay all expenses associated with owning the vehicle including, without limitation, expenses associated with the provisions of Subsection VII (C)(1)(b), below; and
      b. Require the participant, as an additional provision of the Agreement, to—
         i. maintain active, current registration for the vehicle,
         ii. maintain active, current insurance on the vehicle,
         iii. ensure that the vehicle timely passes state inspection, and
         iv. ensure that all applicable taxes on the vehicle are paid."

The rules fail to define what a premium is and for what it is and is not to be used.

Note that the rules specifically state that "the Department must—Determine that, without assistance from the Department, the participant is financially able to pay all expenses associated with owning the vehicle including, without limitation, expenses associated with the provisions of Subsection VII (C)(1)(b), below." The participant is additionally required to maintain the registration, insurance, and pay the taxes and ensure the car passes inspection. To a reasonable person, this would indicate that the payment of a premium to the department is a separate requirement of the participant, and, because the rules state "as an additional provision of the Agreement," such premium funds would not be the means by which the other payments and compliance under b. are maintained.

In other words, the rules indicate a participant must have the ability to pay for these costs of vehicle ownership without the resources of the department aiding him or her, and participation in the program requires the participant to be responsible for taking the actions and paying the costs of ownership.

However, in the RFP, Part II, F. states,
"F. Vehicle Premiums, Warranty and Maintenance
1) Participant Premiums
   a) Design and implement a process to collect and track premium payments which ensures Participants of vehicle ownership pay a down payment and monthly premiums as required by the Department, including but not limited to:
   b) How down payments and premiums shall be collected; and
   c) How Participant accounts shall be monitored;
2) Disbursement of premiums shall be utilized for costs associated with vehicle:
   a) Registration, including title fees, excise tax and sales tax;
   b) Insurance premiums;
   c) Maine inspection sticker; and
   d) Repairs."

Under these terms in the RFP, the contractor, on behalf of the department, is ensuring that the financial obligations to maintain insurance, taxes, inspections and repairs are met. The RFP is providing a means by which the department is assisting the participant with paying the expenses.
Part of car ownership is being able to budget for the cost of payments, maintenance and being able to set aside an emergency fund to pay for unexpected repairs. The department, through the RFP, is using the "premium" to pay for the costs of ownership.

5. The rules The RFP lacks specifications related to the requirements and rules for handling payments:
   - Neither the rules or the RFP address interest on the participant accounts. To which organization or individual does the interest accrue and in what manner?
   - Payment: "participants must pay to the Department a premium of $100 by the 15th day of each calendar month." Does this mean check date? Postmarked? Or received by the department by close of business on the 15th? The rules describe consequences for failure to make a "timely" payment but there is no definition of timely connected to the payment deadline definition.
   - What is the acceptable form of payment? May payments be authorized through direct deposit? Can payments be made at the contractor's office or DHHS offices or both?
   - Is there a maximum number of monthly payments that may be waived and remain eligible?
   - Program Graduation: The rules state that the participant graduates after 24 months, and provides no guidance as to the disposition of the funds in the account. The RFP, however, makes it clear that the funds in the account are only to be used for the payment of expenses tied to vehicle ownership to include excise taxes, insurance, inspections and repairs. If there is a balance of funds in the account upon graduation, is that balance, to include any accrued interest, now the property of the Department, the contractor, or the participant? If the participant, what is the time frame for the reimbursement of the finds to the participant?

6. The rules lack timelines for development of policies and computer system administration. Given the additional time required to develop these elements and hiring staff before the program can be rolled out, it is unlikely that the program can be implemented and have individuals complete a 24 month cycle of payments to graduate from the program before the statute's sunset. This means that, as drafted, the program will leave all participants with vehicles that they have not completed payments

for. Both the rules and the RFP must address how the status of the vehicles and the participants will be resolved upon program sunset. The rules and contract cannot exceed the authority of the statute.

7. Neither the rules nor the RFP provides any guidelines for repossession of vehicles and the titles from individuals who have violated the program participation requirements. There are also no guidelines establishing authorized repossession actions or a specified time frame in which they authorized actions may occur.

8. No requirement that the winner of the contract buys cars from Maine's new or used car dealers

9. No limits on the value or types of cars that can be purchased under the RFP or transferred to participants.

10. Eligibility monitoring: Under the RFP, "Part II. (C) 2. Eligibility Monitoring: Monitor continued Participant eligibility, as well as ensure, monitor, and enforce Participant compliance with program rules and regulations, established by the Department, by: Completing Participant progress checks **every three (3), six (6), nine (9), and twelve (12) months** from the date of the start of the Participant's eligibility determination." This conflicts with the requirements spelled out in the proposed rules: VII.(A)3e. "A commitment that the participant will attend in-person meetings with the Program as scheduled, and no less often than once a month during the first six (6) months of program participation." At minimum there is a lack of clarity around the requirements of in-person meeting and the difference with a progress check, as well as what constitutes "monitoring" for continued participant eligibility.

11. Rules lack specifications surrounding the provision of drivers ed and the eligibility of newly licensed drivers in eligibility for vehicle access, although the RFP includes specifications on the provision of these services.

12. Rules lack clarity regarding consequences for such violations of the commitments, like, if someone is repeatedly allowed to drive the vehicle, how many times is allowed before it is deemed sufficient to result in the disqualification of the participant? Would an intentional program violation be filed if someone other than the participant is pulled over by law enforcement or in an accident while driving the vehicle?

13. RFP lacks specifications for the handling of funds, payments, processing times, posting to participant accounts, interest accrual, how payment processing requests will be handled, whether payments will be issued directly to the vendor/payee and whether/how participants may be reimbursed for costs paid initially out-of-pocket but that are expenses that qualify for payment out of the accrued funds.

14. RFP lacks requirements for systems to track or monitor vehicles to ensure they are not being used for unauthorized purposes.

15. Upon the statutorily authorized termination of the program or any termination with the contractor, the RFP does not indicate how and to where funds will be transferred from participant accounts and in what time frame, and how any unassigned vehicles will be transferred back to state ownership or otherwise sold or donated.

16. The RFP's staffing requirements las any requirement for a person to oversee financial transactions, enter and track payments and ensure on-time payment of participant bills.

17. None of the RFP's performance measures include accurate tracking, handling or management of program assets, to include vehicles and participant funds.

18. None of the RFP's performance measures ensure that the program is managed to ensure that vehicles are provided in a way to maximize resources, for example, limits on costs of vehicles purchased for the program, requirements that high-value vehicles donated to the program are sold to reduce cost of maintenance or to purchase more than one vehicle.

19. The RFP does not specify how the Department's funds are to be handled, rather it asks the bidder to propose how it will handle the funds. The Department should include minimum requirements as to how program funds are to be disbursed and managed in the rules.

20. The rules lack clarity as to how the vehicle ownership upon graduation will be treated as part of the asset test for TANF because the vehicle will still likely be worth at least several thousand dollars.