

# MAINE STATE LEGISLATURE

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February 1, 2013

The Honorable Justin L. Alfond, President of the Maine Senate  
3 State House Station  
Augusta, ME 04333-0003

The Honorable Mark W. Eves, Speaker of the House of Representatives  
2 State House Station  
Augusta, ME 04333-0002

**RE: 5 M.R.S.A. §12021-12023: Quasi-Independent State Entities**

Dear Senator Alfond and Speaker Eves:

Pursuant to the above-referenced statutory requirement, this letter and the documents attached to it shall serve as the report of the Efficiency Maine Trust (the Trust) on the Trust's policies and procedures regarding procurement, contributions and travel.

The Efficiency Maine Trust Board (the Board) adopted and implemented multiple policies and procedures related to these requirements since its inception approximately three years ago.

To ensure compliance with financial policies and procedures, the Trust implemented the *Contract Invoice Process – Roles and Responsibilities* (Updated January 23, 2012). A copy is attached.

The Board approved the Trust's *ARRA Monitoring and Compliance Plan* in September 2011. This Plan provides procedures governing how the Trust establishes grant agreements, monitors compliance with federal and state laws, promotes competitive procurement processes, and ensures sufficient documentation for payment of invoices. A copy of this policy is attached (appendices not included but available upon request).

The Board approved the Trust's procurement policy for the selection of vendors with the adoption of *Chapter 1: Contracting Process for Service Providers and Grant Recipients* in September, 2010. A copy of this policy is attached. In addition to this rule, the Trust also complies with the procurement rules found in the Code of Federal Regulations (10 CFR 600) for all expenditures of federal grant funds. These rules are lengthy and the Trust will be glad to provide them if requested.

The Board has also been very conservative regarding memberships and sponsorships. Individual staff memberships in professional associations are allowed and addressed in both of the Efficiency Maine Trust State and Non-State Personnel Manuals, which were approved by the Board in May, 2011 and are attached. Regarding corporate memberships, the Trust requires a Board vote as evidenced by Board approval of the membership in the Consortium for Energy Efficiency (approved in April 2011 and April 2012). The Trust Board has also supported Trust memberships in several Chambers of Commerce as a means to communicate with area businesses about opportunities to participate in the Trust's programs. Sponsorships are allowed, though rarely exercised, on the condition that the topic of the event or initiative has a direct nexus to promoting information and awareness of energy efficiency issues and will contribute to the successful implementation of the Trust's programs. The policy on Contributions is attached.



The Trust's 31-page travel policy was adopted in May, 2011 and fully outlines, in detail, the process for obtaining approvals and reimbursements related to travel. The Trust requires multiple staff sign-offs before travel (or lodging) can be authorized and again before payment for approved travel (or lodging) is made, which paperwork is all kept in the A/P files and subject to the A-133 audit that the Trust annually commissions and reports to the Board and the Office of the State Controller.

The Trust does not use or retain lobbyists and has no budget to support such expenditures. Trust staff are registered, as necessary, to represent the Trust before the Legislature and State agencies.

The Board monitors compliance by relying on the external auditors who report annually to the Board on the Trust's adherence to its policies as part of its annual audit of the Trust's financial statements. The audit reports are presented to and adopted by the Board and reported to the State's Office of the Controller.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "MS Stoddard", is written over a circular stamp that contains the letters "MS".

Michael D. Stoddard  
Executive Director

**Efficiency Maine Trust**  
**Contract Invoice Process – Roles and Responsibilities**  
**Updated January 23, 2012**

This document details the process for the receipt, approval and payment of invoices received for grant contracts. The process starts by defining which staff members are a party to a particular invoice and what their responsibilities include. There are three approval levels: the program or contract “manager;” the grant or contract “administrator;” and the Program Director or other director.

By signing the payment stamp each approver certifies that to the best of his/her knowledge all review steps, consistent with the responsibilities of their individual roles, have been satisfied.

Grants are funds provided by Efficiency Maine to persons or entities for activities that are consistent with the mission and objectives of the Trust and for which the Trust assumes oversight responsibility. Grantees are distinct from “vendors.” . Given that much of the Trust’s funding comes from the U.S. Department of Energy, the Trust has a responsibility to assure that funds are disbursed consistent with the federal grant award contract and other federal standards and requirements.

The steps, roles and responsibilities of the invoice process are as follows:

**A. Administrative Secretary**

1. Open US mail and overnight deliveries;
2. Open email inbox [accountspayable@efficiencymaine.com](mailto:accountspayable@efficiencymaine.com) and print the invoice and any documentation included in the message;
3. Date stamp invoice and any documentation included in the message;
4. Affix payment approval stamp to face of the invoice; and,
5. Distribute invoice and all documentation to accounts payable accountant.

**B. Accountant – Accounts Payable**

1. Organize invoice and supporting documentation for costs to be paid for subsequent reviews;
2. Distribute other documentation including the cover message, pictures, letters or other documents or materials to Program/Contract Manager;
3. Verify documentation for costs to be paid to any listing for any costs itemized on or with the invoice.
4. If contractor provides listing on or with the invoice, or there are limited number of pieces of supporting documentation for costs to be paid:
  - a. Run tape for the supporting documentation; and
  - b. Staple tape to the supporting documentation;
5. If contractor does not provide a listing on or with the invoice and there are a substantial number of pieces of supporting documentation verify totals or subtotals by invoice line, or by category of expenses;
6. Date and initial amount(s) on invoice with notation(s) “proved up”, “partial backup” or “lacks backup”;

7. Enter Org Code onto payment stamp, or hand-write on the front page or attach to the invoice a payment allocation statement for allocation of costs to multiple fund sources with multiple objects of expense;
8. Route invoice with all supporting documentation for costs being invoiced to Program/Contract Manager; and,
9. Accountant is not responsible for determining objects of expense, funding source, or sufficiency of the supporting documentation.

**C. Program/Contract Manager “Manager”**

1. Determine appropriate contract number and verify contract number on the invoice by initialing the contract number;
2. If the contract number is incorrect, write the correct contract number on the payment stamp;
3. Ensure that invoice reasonably describes the objects of costs that are being invoiced;
4. Ensure that invoice has sufficient supporting documentation to verify costs to be paid;
5. Verify that costs and items are allowable per the contract and appropriate OMB Circular;
6. Review expenses and use of funds against *Statement of Cash Balance and Grantee Match Contribution* in cases where a cash advance was made to the grantee
7. Ensure the procurement and the Buy American certifications are received for covered items, where appropriate and required;
8. Ensure Davis Bacon Wage reports are included and properly completed, where appropriate and required;
9. If Davis Bacon Wage reports are required and the grantee is a non-government entity the report will be an original report; if the grantee is a governmental entity, the report may be a copy, but the government must maintain the original report;
10. Ensure payroll verification and time sheets or activity reports where grantee is reimbursing personnel costs or using personnel costs to demonstrate in-kind match;
11. If the Manager finds that there are missing items, the Manager should contact the grantee to secure the missing materials;
12. If supporting documentation is missing or insufficient but the Manager has been in contact with the grantee to resolve the deficiency, Manager may prepare and include a written request to CFO requesting authorization for the payment. That request must include an explanation of what documentation is included, what documentation is missing, and how and when the deficiencies will be cured by the grantee;
13. For grant contracts with milestone payments, signing the payment stamp certifies that:
  - a. Milestone 1 – certificate of insurance and W9 were received and filed;
  - b. Milestone 2 – prevailing wage determination and subcontracts were received and reviewed and they comply with contract and are filed;
  - c. Milestone 3 – supporting documentation for all costs to date were received and verified; and
  - d. Milestone 4 – supporting documentation for all of project costs were received and verified.
14. If all items required by paragraph 13 of this section are included and the Manager verifies the payment, the Manager will sign the payment authorization stamp;
15. Route invoice with all supporting documentation for costs being invoiced to Grant/Contract Administrator, where appropriate;

16. If the Program/Contract Manager for a particular grant happens to also be the Division Director (“Director”), the Director’s signature is not a final authorization for payment until reviewed and approved by the Administrator; and,
17. Manager may not provide grantee with an assurance of the date of payment. Payments will be scheduled by Accounts Payable consistent with the terms of the contract. Timing for release of funds will not begin tolling until all materials necessary to make the payment are received.

**D. Grant/Contract Administrator “Administrator” (for review of grant-funded contracts)**

1. Administrator will first review the invoice to ensure all the supporting documentation is included and that the Manager has signed off authorizing payment;
2. The Administrator will indicate to the Manager any item(s) of supporting documentation that is (are) found to be missing, and the Manager will be responsible for collecting the missing item(s) before the invoice will be resubmitted to the Administrator for payment processing;
3. If no missing items are identified,, Administrator is responsible to:
  - a. Review and ensure that the invoice and all documentation is appropriate and correct; and,
  - b. Ensure that the contract is not expired.
  - c. If the contract is expired the Administrator will determine whether:
    - i. The invoice was issued within a reasonable period following expiration of the contract, generally up to 60 days, for work performed within the contract period. If so, refer the payment request to the CFO for review with the Director; and,
    - ii. The invoice costs are for work performed outside of the contract period. If so, refer the invoice to the CFO who is responsible for authorizing the payment in conjunction with the Director or requiring a contract extension.
  - d. If the invoice is a final payment, before processing the invoice:
    - i. audit the complete contract file to assure that all contract and federal requirements are met;
    - ii. verify costs to the project and grant budget;
    - iii. verify grantee match and documentation of the match whether cash or in-kind contribution; and,
    - iv. if there are missing items or areas of non-compliance, return the invoice to the Manager who is responsible for resolving any outstanding items.
4. If all items are verified and included, sign the payment authorization stamp;
5. Route invoice with all supporting documentation for costs to be paid to the appropriate Director; and,
6. Administrator may not provide grantee with an assurance of the date of payment. Payments will be scheduled by Accounts Payable consistent with the terms of the contract. Timing for release of funds will not begin tolling until all materials necessary to make the payment are received.

**E. Program or other Director**

1. Director reviews the invoice and supporting documentation for costs to be paid before authorizing payment;
2. Director may rely upon prior reviews and authorizations by the Manager and Administrator;
3. If the Director is the Contract Manager, the Director’s signature is not a final authorization for payment until reviewed and approved by the Administrator;

4. If the Director raises a question or concern about payment of the invoice, the Director has the option of addressing the question to the CFO, Administrator, Manager or other appropriate staff member;
5. If all items are verified and included, sign the payment authorization stamp
6. Route invoice with all supporting documentation for costs to be paid to Accounts Payable; and,
7. Director may not provide grantee with an assurance of the date of payment. Payments will be scheduled by Accounts Payable consistent with the terms of the contract. Timing for release of funds will not begin tolling until all materials necessary to make the payment are received.

**F. Accountant – Accounts Payable**

1. Accountant will verify and enter MUNIS contract number on payment stamp
2. Accountant will review payment authorization stamp to assure that all necessary authorizations are made on the payment authorization stamp on face of invoice;
3. Enter invoice into Accounts Payable program and stage the payment consistent with contract and Trust cash flow needs;
4. Upon payment, attach check and invoice together for check signature by Executive Director and counter-signer, if needed;
5. If payments are to be made by electronic funds transfer – either fed wire or ACH – the invoice will be counter-signed by the Program Director and Executive Director and then delivered to CFO for staging at the depository bank and released by either Executive Director or Program Manager; and,
6. As the payment transaction progresses through the accounts payable process in MUNIS, authorized users of the financial management system will be able to query the system to determine where transaction is in the payment process.

**G. Administrative Secretary**

1. Verify that all checks are properly signed – one signer for checks with a value of less than \$10,000 and two signers for checks with a value of \$10,000 or more;
2. Signed checks with appropriate payment stubs are mailed to grantee;
3. Invoice, supporting documentation for costs to be paid and copy of check stub will be filed in the vendor file or the contract file; and,
4. Copies of the invoice and supporting documentation may be made for manager’s working or project file, but original documents will reside in the contract file.

# Efficiency Maine Trust

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## American Recovery and Reinvestment Act of 2009 (ARRA)

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## Monitoring and Compliance Plan

**Finalized March 2011**

**Approved by Board of Trustees September 7, 2011**

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**Exhibits:**

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**Introduction:** The Efficiency Maine Trust (Trust) Monitoring and Compliance Plan was developed in response to the site visit with George Darakos, US Department of Energy (DOE) State Energy Program (SEP), in August 2010 and the On-Site Monitoring Report dated September 23, 2010 for Grant - EE0000368. The report noted that the Trust “...lacks formal monitoring procedures for sub-grantees.” The Trust would like to acknowledge that this plan was developed utilizing the State of Iowa’s Office of Energy Independence Accountability and Compliance Plan and would like to thank them.

Efficiency Maine programs were established in 2002 as a statewide effort to promote the more efficient use of electricity and thereby help Maine residents and businesses reduce electric costs. Effective July 1, 2010, administration of the programs was transferred from the Maine Public Utilities Commission (MPUC) to the Trust, an independent quasi-state agency. The Trust is directed by a stakeholder Board of Trustees representing Maine energy consumers and experts in energy issues. The Trustees are appointed by the Governor to staggered three year terms and confirmed by the Maine State Senate. The Trust is also regulated by the MPUC and the Utilities, Energy and Technology Committee of the Maine State Legislature has oversight authority over both the MPUC and the Trust. The Trust’s mission was expanded to enhance the efficient use of, and reduce business and residential spending on, all forms of energy—electric, natural gas, propane and heating oil—while consolidating administration of statewide programs under one roof. In a further shift from prior years, FY 2010 brought federal funding from the American Recovery and Reinvestment Act (ARRA) and auction proceeds from the sale of carbon allowances by Regional Greenhouse Gas Initiative, Inc. (RGGI) both of which supplement the ongoing programs funded by the System Benefits Charge (SBC) which are levied on utilities.

By its enabling legislation, the Trust is responsible for overseeing and administering the US DOE State Energy Program and other federally funded programs and projects related to trust programs. In 2010 Governor transferred the designation of the State Energy Office (SEO) from MPUC to the Governor’s Office of Energy Independence and Security (OEIS).

Question, concerns or suggestions concerning this document may be directed to:

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**Background:** In fulfilling its responsibilities as either a prime recipient or a sub-recipient and administrator of American Recovery and Reinvestment Act of 2009 (ARRA) funds, the Trust has developed this accountability and comprehensive monitoring plan to review grant and sub-grant supported activities. The Trust has four high priority programs that this plan will address; however, it is intended to apply to other ARRA, non-ARRA federal programs and non-federal programs as well. Programs addressed in this accountability plan include, but are not limited to:

*A. ARRA -State Energy Program (SEP):* OEIS is the prime recipient of this grant while the Trust is the sub-recipient and this program is funded at \$27,305,000. This is a three-year grant for the period April 30, 2009 to April 30, 2012. The Trust has primary responsibility for administering the grant and programs for non-state agencies. The Trust prepares the required reporting, and quarterly ARRA section 1512 reporting is submitted to the State Controller's Office, which aggregates all State ARRA reports and submits a single comprehensive report for the State of Maine. The goals established for SEP are: increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government; reduce reliance on imported energy; improve the reliability of electricity and fuel supply and the delivery of energy services; and, reduce the impacts of energy production and use on the environment. This program includes four primary market activities:

- Renewable Energy Development;
- Training;
- Energy Retrofits – Grants/Loans/Rebates/Audits; and,
- Program Support and Administration.

*B. Energy Efficiency & Conservation Block Grants (EECBG):* The Trust is the prime recipient and the program is funded at \$9,593,500. This is a three-year grant for the period November 13, 2009 to November 12, 2012. The Trust administers this grant and completes all reporting requirements. The overarching goal of the funding is to assist state and local governments in implementing strategies to reduce fossil fuel emissions, to reduce total energy use, and to improve energy efficiency. . The following are approved uses of this fund:

- Grants to municipalities for the development of energy management plans, energy audits, energy efficiency retrofits and renewable energy systems; and,
- Large industrial projects.

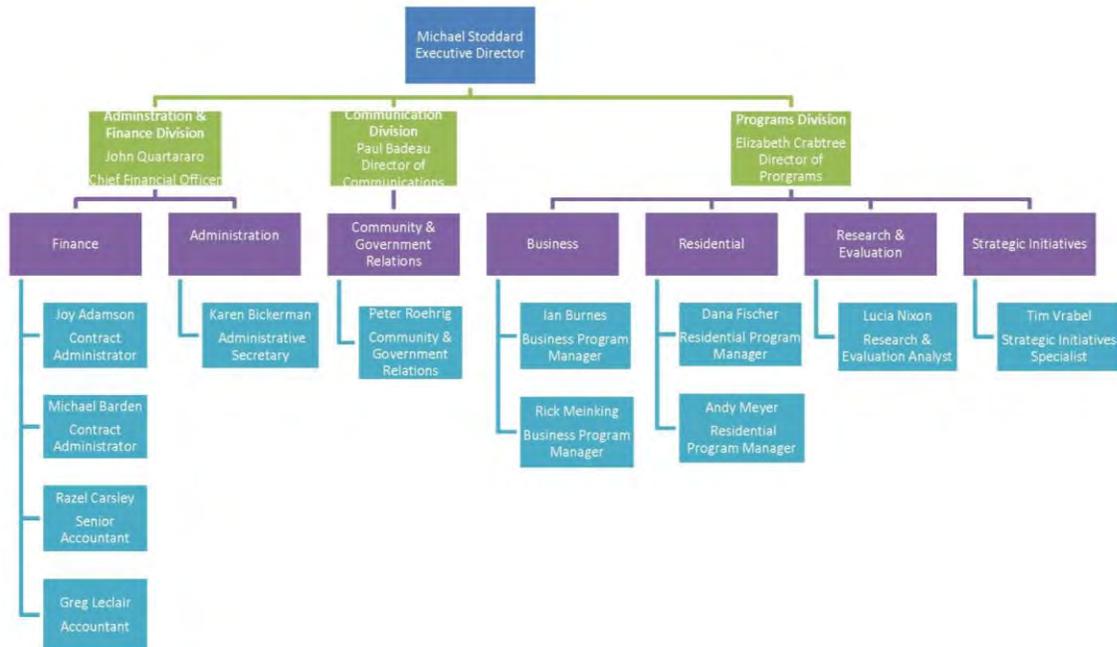
*C. State Energy Efficient Appliance Rebate Program (SEEARP).* The Trust is the prime recipient and the program is funded at \$1,263,000. This is a three-year grant for the period August 24, 2009 to February 17, 2012. The Trust administers this grant and completes all reporting requirements. This program is intended to provide rebates to consumers who replace heating equipment with products for a residence that are rated for energy efficiency under the ENERGY STAR Program. \$300 - \$500 rebates will be provided for ENERGY STAR heat pumps (air source), boilers, water heaters, and furnaces.

*D. ARRA- Better Buildings Grant (EECBG):* The Trust is the prime recipient and the program is funded at \$30,000,000. This is a three-year grant for the period June 3, 2010 to June 2, 2013. The Trust administers this grant and completes all reporting requirements. The program develops and deploys financing tools to complement a comprehensive suite of all-fuels energy efficiency and weatherization programs. Marketing and awareness campaigns will be conducted to alert Maine citizens to the advantages of new financing tools, including most notably the PACE mechanism which will provide a revolving loan pool of \$20,400,000. It will tie this financing to the delivery of existing energy efficiency and weatherization programs, and will enlist the help of local governments, community groups, trade associations, schools and other networks to market home retrofits. The program includes initiatives to

quantify, verify and report on energy savings, carbon savings, and loan performance, among other indices of success.

*E. Other Federally Funded Programs:* The general principles and procedures for other federally funded programs will adhere to this accountability plan.

**Concept of Program Management** Each program under control of the Trust will have the following basic structure for management to assure focus and unity of effort throughout the program lifecycle and monitoring process:



The Trust is overseen by a Board of Trustees which has ultimate responsibility for adopting policies and providing direction to achieve the goals of the Trust. The Executive Director has responsibility for providing proper management and use of resources to implement the policies and direction of the Board in the achieving of the goals of the Trust. The Division Directors are direct reports to the Executive Director and each has responsibility for managing the staff and protecting the resources available to them for the benefit of the Trust.

Each program (SEP, EECBG, SEEARP, or other ARRA programs), will be managed by the Program Managers with oversight by the Director of Programs. Consistency will be achieved through a common management practice consisting of three specific areas within the Office – Administration and Finance, Communications and Programs. Under the direction of the Executive Director, the Division Directors, the Director of Programs, the Director of Communications and Chief Financial Officer, will assure a coordination of resources and efforts to achieve the goals of the programs and the grant during the entire lifecycle of each ARRA program.

The three divisions have a clear segregation of duties. The Program Division staff design, administer and implement their associated programs to ensure that programs are compliant with relevant funding source goals, objectives and requirements. The Administration and Finance Division assists in supporting those activities administratively, which includes collection, recording, processing and reporting of all financial transactions, projecting and managing the budget, and managing and ensure compliance associated with federal grants and contracts. The Communications Division provides marketing, public relations, and overall communications services related to achieving and communicating program and organizational goals.

### **Grant Application and Administration**

A. Grant Application: The Trust may apply for available federal grants in one of several capacities:

- 1) as a direct recipient of the grant with no other entities included in the funding opportunity application;
- 2) as a sub-recipient of State Energy Program grants where OEIS is the prime recipient;
- 3) as either a direct or a subrecipient in collaboration with another (other) entity(s) which would be a named subrecipient on the grant application, and where all, or a portion, of the grant funds would be passed through to the sub-recipient(s)

Where the Trust submits a application in collaboration with another entity that would be a named sub-recipient, the Trust will exercise due diligence during and after the grant application and award process to determine if the named sub-recipient could pose to a potential risk to the Trust, the administration of the grant and/or the success of the program(s) funded by the grant. The potential risk that a sub-recipient could pose will be assessed by the completion and evaluation of the *Checklist for all Potential Grant Recipients* found in Exhibit F. In addition to the use of the checklist, the Trust may also require a written certification from the sub-recipient's external auditor that the sub-recipient's financial management system and internal controls are appropriate and in conformance with the standards contained 10 CFR 600, the appropriate OMB Circular. The mere potential of a risk will not necessarily stop another entity from participating as a sub-recipient although the magnitude of the risk and the amount of effort required to mitigate the risk could be sufficient to require collaboration with another entity.

The level of oversight review will be contingent upon factors involving both the grant and the level of financial support and the nature and type of the entity or individual. The factors concerning the entity or individual includes new or startup organization versus long standing that is subject to OMB A-133 audit requirements; the administrative and financial management structure of the entity and its ability to effectively management, and report activity consistent with federal requirements, the size of the pass through award; and/or prior contracting or

experience with the Trusts' programs or federal grants. The Trust will also assure that as part of the contract process the sub-recipient receives copies of 10 CFR 600 *Federal Financial Assistance Regulations* the appropriate OMB Cost Principles Circular for the type of entity – A-21 *Educational Institutions*, A-87 *State, Local and Indian Tribal Governments*, A-122 *Non-Profit Organizations*; and OMB Circular A-133 *Audits of State, Local Governments and Non-Profit Organizations*, and 48 CFR *Federal Acquisition Regulations Systems*, Parts 31 and 931 *For-Profit Organizations*.

B. **Contract Development:** Following the grant award the Trust will include within the contract with the sub-recipient requirements that will mitigate the risk. During the contract and grant administration period, the Trust will monitor the sub-recipient both in terms of performance but also to identify risk factors to assure that these factors are controlled and the potential risks are reduced and/or eliminated. Should the sub-recipient demonstrate the need for technical assistance, the Trust will direct the sub-recipient to resources that can provide the assistance needed or may provide such assistance. If necessary the Trust may assist with the sub-recipient in its development, implementation and monitoring of a corrective action plan. The technical assistance required may include steps to mitigate risk factors identified through the checklist review.

If the sub-recipient fails to take the necessary corrective actions the Trust may take all necessary steps and actions available to it to assure the success of the program and protect the resources made available under the grant. In evaluating the need for technical assistance and/or a corrective action plan, the Contract Administrator will work with the Program Manager, but will have primary responsibility for the assistance and plan monitoring if the deficiencies are primarily or exclusively administrative and financial in nature as compared to programmatic. Where deficiencies are primarily or exclusively programmatic the Program Manager will have primary responsibility for the assistance and plan monitoring in conjunction with the Contract Administrator.

C. **Contract Management:** During the grant management period, the Trust may purchase services through contractors and other vendors or award sub-grant funding to other public, non-profit or for-profit entities. The Trust will follow its established procurement procedures in awarding any resulting contracts whether those awards are for the purchase of goods or services or as sub-grant funding. The Trust will take into account any potential risk factors, and where the recipient of sub-grant funding has risk factors of concern, the Trust will take steps to mitigate and/or eliminate the risk. As part of its award process for contractors and vendors, the Trust will address concerns which could cause a disruption in the performance of the contract. Whether a contractor, vendor or recipient of sub-grant funding, the Trust will follow its monitoring protocols to assure the protection of resources, the delivery of the required goods and services and the successful completion of the grant program. As issues of concern are raised whether by the Program Manager or the Contract Administrator, the two will work

together to determine the risk to the program and the contract and will take necessary steps including referring the matter to their respective directors for direction.

## **Program Management**

The following sections detail actions and responsibilities for individual programs as well as those that apply generally to all ARRA and other federal grants.

**1. Application intake and comprehensive review:** The intake and comprehensive review process outlined below were used for the EECBG and SEP applications and projects received in response to a RFP or a program opportunity notice issued by the Maine Public Utilities Commission or under authority of the Trust's procurement rule (Exhibit E). The same or similar procedures may be used in the future for these or other grants.

*A. Receipt of Application:* The Trust's Administrative Secretary will stamp all applications with a dated "Received" stamp and create a file for each application. Application will be forwarded to the Program Manager.

*B. Comprehensive and Technical Review:* The Program Manager, will appoint a review team, which will screen and select applicants based on appropriate scoring criteria and/or any pertinent funding source requirements. Review scores will be entered into a master spreadsheet that records all metrics for the applications. The review team will provide a summary of its selection decision and will notify all applicants of the decision, including any pertinent appeal procedures.

*C. Contract Term Negotiation:* The Program Manager and contracting team, with assistance from the Trust's legal representative, will prepare contract documents using award conditions and terms. Once agreed upon, the draft contract will be sent to the recipient for review and comment. If necessary, the Program Manager will negotiate contract changes or amendments requested by the recipient. When the terms and conditions of the contract are completed, the contract document will be reviewed for form and funding authorization by internal staff.

*D. Contract Award:* The contract document will be attached to an internal contract routing sheet (blue slip) and distributed to the following staff for review, and approval:

- Program Manager - reviews the content and terms of the contract;
- Senior Accountant – reviews and records the funding source, contract amount, dates, and accounting codes;
- Contract Administrator – ensures that the future sub-recipient has a DUNS number and CCR validity date, checks them against the US Excluded Parties List System (EPLS), and assures the flow down requirements are included; and,
- Director of Programs - for approval or authorization.

Finally, the contract is sent to the recipient for approval and signature. Upon receipt of the contract executed by the recipient, the Executive Director will complete and execute the contract for the Trust. Only the Trust's Executive Director is authorized to sign contracts for the Trust unless the Executive Director appoints a designee in his/her absence, which has not yet occurred.

The Administrative Secretary will take custody of the original executed contract and is responsible for maintaining secured contract files.

*E. Project Files Procedures:* The Program Manager is responsible for establishing, maintaining, and updating a project file for each award throughout the life of the contract. The project file is separate and distinct from either the grant or the contractor files. The project files shall be safeguarded to assure appropriate levels of documentation and data privacy to protect against information being compromised, accessed, or released to unauthorized personnel. Files will be available for inspection by Finance Division staff and the Trust's independent auditor.

*F. Review of contract and requests for revisions, contract changes, and amendments:* At a minimum, all open contracts will be reviewed at least annually. The Program Manager will coordinate with the sub-recipient, Contract Administrator, the Trust's legal representative, and others as appropriate, to assure compliance and legal requirements are satisfied.<sup>1</sup>

## **2. State Energy Efficient Appliance Rebate Program (SEEARP) procedures**

The Trust entered into a contract with an outside contractor to administer the SEEARP. The selected contractor must comply with all requirements in the request for proposal, the offering within the proposal, and the terms and conditions of the contract. Goals of the rebate process are to provide a positive experience for the constituents; prevent over-subscription; manage consumer expectations by providing accurate and timely information; prevent and minimize fraud; provide transparency and auditability; provide clear documentation and reporting; and keeping administrative costs low.

The Trust chose a mail-in rebate program in order to have the highest degree of flexibility to administer the program. The other rebate options that were considered included instant rebates and paperless rebates. The mail-in rebate program allows the Trust to: pre-determine the appliances approved for the rebate; to provide opportunities for all retailers to benefit from sales; prevent over-subscription; make the program available to all consumers regardless of internet access; impose household limits; and execute the process very quickly.

The SEEARP process is as follows:

*A. Rebate Form:* The forms are received by the contracted rebate company (contractor).

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<sup>1</sup> For purposes of compliance and monitoring, "sub-recipient" or "grantee" includes parties that have entered into agreements or contracts directly with the Trust to complete projects or deliver programs.

*B. Mail Saved:* All mail-in rebates are saved, by the contractor, including envelope, receipts, rebate form, etc., to assure audit-ability.

*C. Sorting and indexing:* The contractor sorts and indexes all rebate requests received. This allows for categorically tracking rebate funds available for each type of appliance included in the rebate program.

*D. Rebate validation:* The contractor cross-checks rebate applications to eliminate/minimize fraud. This process establishes household limits, requires original receipts, runs a systematic de-duplication process, and compares submissions against a mail fraud database.

*F. Invoice payment:* The Trust provides payment to the contractor upon receipt of a monthly field report and invoice, which is processed through the Trust's account payable procedures.

*G. Reward fulfillment:* The contractor provides a check to the consumer within 6-8 weeks of receipt of the completed rebate application.

*H. Budget accountability:* All funds are carefully tracked by the Program Manager, who has access to the rebate contractor's database. The contractor provides up-to-date status reports via e-mail.

*I. Reports, audits and records:* All rebate requests, approvals and payments are carefully documented, categorized, and rolled up into reports that are readily available for the Program Manager and Contract Administrator which are available as requested. All records are maintained and easily retrieved for audits and accountability.

### **3. Compliance Requirements**

*A. Monitoring policies and procedures:* The Trust will plan ongoing and periodic activity to measure and ensure sub-recipient compliance with the terms, conditions, and requirements of the contract. The purpose of the Trust's monitoring is to serve as a preventative measure. The Trust has defined monitoring activities to include review of reporting, invoices, and contract with the sub-recipient. Additionally, the Trust monitoring will supply an opportunity to provide technical assistance to the sub-recipient on:

- Complying with the terms and conditions of the contract;
- Preventing non-compliance; and,
- Resolving potential problems.

The Trust will implement regular monitoring to identify problems with failure to produce or submit key deliverables, findings of inferior quality of services, failure to perform all or part of the contract, late performance, or late submission of reports on a recurring basis. Every communication with the sub-recipient is an opportunity to monitor activity. Monitoring procedures include but are not limited to:

- *Quarterly reporting.* A sub-recipient is required to submit quarterly progress reports and other appropriate data to the Contract Administrator, based on pre-defined criteria... Depending on the grant funding source, i.e., SEP, EECBG, etc, the Trust will coordinate grant reporting with the

Office of the State Controller (OSC) to assure all of the ARRA 1512 reporting criteria and data fields are reflected appropriately and will complete all required non- 1512 DOE reports For certain ARRA grants where the Trust is the prime recipient, section 1512 is not made through the State Controller's Office

- *Review of the sub-recipient's reports.* This review will be initiated by the Program Manager for verification of services provided and adherence to the contract. The Contract Administrator will review to assure proper technical review, compliance, statistical analysis, etc. The Program Manager will assure sub-standard performance is identified and addressed timely and appropriately.

*Invoice reviews.* Invoices received by the Trust will be processed according to the Trust's Account Payable procedures. Invoices are date stamped, payment stamped and then distributed by the Administrative Secretary to the appropriate Program Manager. The Program Manager is responsible for comparing billings with the terms of the contract and ensuring the costs being charged and the payments being made are within the terms of the contract. When compliance is confirmed, the Program Manager indicates the funding source and the program. The Program Manager authorizes payment of the invoice by signing within the payment stamp on the invoice and then passes the invoice onto the Director of Programs for review and final approval of the payment. The invoice is then routed to the to the accounting staff for verification, account coding, fund/expense tracking, and contract balance monitoring before the payment is processed. Approval of a final project invoice payment will be initialed by the Contracts Administrator to ensure that all necessary reporting and contract conditions have been met. The invoice will then be reviewed and approved as provided for above.

- *Periodic contact with sub-recipient.* The Program Manager is responsible to maintain contact with the sub-recipient in order to establish a continuous dialogue with the sub-recipient and to review progress on a regular basis – even in periods of no activity.
- *CCR Registration.* The Trust Contract Administrator will monitor and ensure that a sub-recipient's CCR registration is on active status at all times throughout the life of the sub grant.

*B. Monitoring Activities.* The Trust will take action to assure proper accountability and compliance by use of the following:

- *On-Site visit Inspection.* This will occur following the award of the contract at initiation of the project. The Program Manager may schedule on-site inspections of all, none, or a portion of any awards and contracts, as deemed appropriate. (See Exhibit D for the Recipient Compliance and Site Visit Checklist.)
- *Periodic inspections.* At a minimum, all open project contracts will be reviewed annually.
- *Random sampling.* Because of the large number of contracts that the Trust has awarded and will continue to award, it is unreasonable to assume that all contracts could be reviewed on a set schedule by the limited number of personnel and resources the Trust has at its disposal. For this reason, the Contract Administrators will identify high dollar, high risk, and other sub-recipient awards. At least 10% of high risk sub-recipients will have random site visits.

- *Other monitoring methods:* The Trust may employ any number of monitoring methods including on-site visits by the Trust or contracted providers, telephone calls, and other forms of correspondence that provides for:
  - Inspecting any document related to sub-recipient’s performance of the contract;
  - Auditing or reviewing any documents related in any way to any payments under the contract;
  - Inspecting the work at any time; allowing consultants, agents, or experts to examine or evaluate completed work, work in progress, payments, or any other matter related in any way to sub-recipient’s performance of the contract;
  - Examining the books, ledgers, documents, papers, and records related in any way to this contract; and
  - Attending any meetings where sub-recipient discusses matters related to the performance of this contract.

*C. Monitoring performance:* The Trust will monitor sub-recipient performance of the contract to verify that sub-recipient is complying with all contract terms and conditions. Sub-recipients are responsible for securing any necessary state or federal permits that may be required to complete the project and complying with all permit terms and conditions. To assure this is accomplished the following may be completed:

- The Trust will review each invoice for compliance with the contract terms and conditions;
- The Trust may withhold paying all or a portion of the invoices if sub-recipient has failed to comply with this contract, including problems identified during the Trust’s monitoring of sub-recipient’s performance;
- If The Trust, any state agency, or federal agency concludes that sub-recipient has been reimbursed for any cost that is unallowable, or unreasonable under the contract, the sub recipient will repay those funds as directed upon receiving written notice from the Trust. The Trust may withhold any payment under a contract if sub-recipient fails to repay those funds;
- The Trust may withhold or suspend, in whole or in part, any payments to sub-recipient, or recover misspent funds from sub-recipient if the sub-recipient or one of its sub-contractors or sub-grantees fails to comply with all applicable federal or state requirements; and,
- The Trust can at anytime: (1) examine any records that directly pertain to, and involve transactions relating to a contract; and (2) interview any officer or employee of a sub-recipient or any of its sub-contractors or sub-grantees regarding the projects funded with ARRA funds.

*D. Monitoring reports and feedback procedures:*

*Project Deficiencies:* The sub-recipient will be notified by the Program Manager, whenever a sub-recipients’ project file is monitored, reviewed, or audited, or an on-site visit is conducted, and a finding, default, or other breach of compliance is identified. The notification will address the finding, default, or other breach of compliance, the circumstances, and the requirement(s) that must be addressed or corrected by the sub recipient. Copies of all correspondence will be filed in the project file. The Program Manager will immediately inform the Director of Programs on issues and concerns regarding a finding,

default, or item of non-compliance. Changes to the terms of a contract will be negotiated on a case by case basis as outlined in the base contract.

Following an on-site visit, copies of checklists, notes, and findings, will be saved in the program folder and/or on the shared drive (S:\3 – Programs). The Project Manager will reply to all inquiries from recipients of funds to answer questions and resolve issues on their ability to fulfill the terms of the contract.

Unannounced visits to recipients of funds: While the Trust retains the right to conduct an unannounced visit; the majority of all on-site visits will be coordinated prior to the visit. Prior coordination will assure the proper individuals are present, documentation is available for inspection, and other conflicts are avoided. Due to the large number of contracts to be monitored, the Program Manager may target more frequent monitoring activities to high-dollar contracts, sub-recipients who are found to be in default of any contract terms and conditions, sub-recipients who provide vague reports, sub-recipients who display suspicious behavior, contracts that may have a higher degree of risk, and contracts that have a higher probability for collusion or inappropriate expenditure of government funds. All attempts will be made to conduct on-site visits to multiple sub-recipients while the Trust staff is visiting a geographical area.

It is anticipated that with given resources, approximately 10% of sites will be visited annually, or at project completion and closeout. All award contracts that are for over two years in duration will be reviewed annually. At a minimum, a thorough review of the contract, all reports, submittals, and financial records will be completed. Contact via e-mail or phone conversation will be made with sub-recipients, and follow-up action completed, if required.

*E. Reporting:* Reports received will be the primary device used by the Trust to monitor activity for any project. The Trust will require sub-recipients to provide all necessary information and data required by ARRA reporting and transparency mandates. If necessary, additionally the Trust staff will review the reports to determine whether the information is realistic and whether each project is still operating successfully. Finally, a Contract Administrator reviews the reports and the comments received from the Trust staff to conclude whether the report is acceptable. The Trust will complete all SEP reports through DOE's web-based (PAGE) reporting system and the State of Maine's consolidated ARRA reporting system (1512 reports). For all other grants, EECBG and SEEARP, the Trust will follow appropriate federal reporting procedures.

- Quarterly status report: At least 2 weeks prior to the quarterly reporting deadlines, the Trust will provide a template for sub-recipients to record the following information at a minimum: Expenditures; Descriptive narrative of the quarterly activities; Job titles and number of hours worked on project for the quarter; Name, address, payment amount and date of any vendor payment equal to or greater than \$25,000; and any other information as may be required under the terms of the contract.
- Final Report: Project Managers shall request that sub-recipients submit a final report where a project closeout site visit has not been completed. The final report will collect information

about the completed project. This information may include: a brief overview of the project and any problems or accomplishments encountered; estimated energy savings calculations; photographs, vendor invoices, applicable payroll documentation, and other information as may be required to ensure compliance with all contract terms and conditions

*F. Procedures for verification of implementation of required corrective actions:* The following process will be followed to assure compliance with corrective action when a default/finding or compliance breach is identified:

- Defaults, findings, and breaches of compliance may be identified at anytime during the life of a sub-recipient's contract. Once a default or finding is identified, the discrepancy will be recorded on the monitoring report. The monitoring report will record the project and location; date of finding/visit, what the specific nature of the finding is; required action to be taken, date the fault/finding is resolved, any additional follow up action, and additional comments.
- Notice of default/finding. If there is a default event that sub recipient can cure, the Trust must provide written notice to sub recipient requesting that the default/finding or breach of compliance be immediately remedied.
- If the breach or noncompliance continues the Trust may: immediately terminate the contract without additional written notice; or, enforce the terms and conditions of the contract and seek any legal or equitable remedies.

*G. Monitoring corrective action plan:* Upon written notice from the Trust, the sub-recipient must comply with the requirements stated in the notice within the amount of time requested. Under extreme circumstances, the sub-recipient may request an extension to remedy requirements stipulated in the notice of default. Extensions may be granted at the discretion of the Trust. All replies, e-mails, notes, and actions, will be recorded and filed in the project folder.

*H. Terminating a contract.* Termination provisions are included in the Trust contracts (See Exhibits A, B and C): Before terminating a contract prematurely for reasons related to unresolved risk deficiencies or substandard performance the Trust will take all reasonable steps to cure the risk factor(s) and/or the substandard performance. This document is not a part of a subrecipient or vendor contract, therefore the Trust's actions in terminating a contract prematurely shall follow the standards and requirements incorporated into the contract.

#### **4. Accounting procedures**

*A. Filing procedures for Reports submitted by the Trust:* All required reports submitted by the Trust will be sent no later than the indicated due date, unless an exception is provided in writing from the agency requesting the report. Copies of reports submitted by the Trust to an outside agency will be filed in the Trust's shared drive under the contract number of the appropriate program. The Contract Administrator is responsible for the reporting of each grant program and the affiliated market titles and the Program Managers are responsible for obtaining and delivering the reports of each affiliated project in that grant program to the Contract Administrators in a timely manner.

*B. Filing procedures for reports coming to the Trust:* Copies of reports coming to the Trust from a sub-recipient will be filed in the Trust's shared drive (S:\2 - Finance\2-6 Reporting) under the contract folder for the project. Required reports coming to the Trust from sub-recipients of government funds will be kept on file for a minimum of three (3) years past the closing date stipulated in the contract.

*C. Accounting:* Funds will be managed by the Chief Financial Officer and the Finance Division staff. Receipt of funds from the federal government, obligations, and expenditures will be recorded in a timely manner. Each grant or fund will be accounted for and tracked separately. The Chief Financial Officer will assure the accounting system is adequate to comply with the contract, including, without limitation, the grant/loan requirements, OMB Circular A-87, OMB Circular A-133, 10 CFR 600 and other guidance authority that may exist with OMB or the grantor agency. All financial and accounting documents will be readily available for review at anytime.

## **5. Contract Closeout Procedures**

A Trust staff member will conduct an on-site visit, if practical; to validate terms and conditions were met as stated in the contract. Upon validation that conditions were satisfactorily met, the Contract Administrator will close the contract, and assure all documentation and accounting actions are completed including the release on any encumbrances. The Contract Administrator will compile all performance metrics and provide them to the necessary reporting entities (OEIS, OSC, or DOE), as appropriate.

## Management Control Plan

**Function:** The function covered by this checklist is the management and control of American Recovery and Reinvestment Act of 2009 (ARRA) funds to include, but not limited to: State Energy Program, Energy Efficiency and Conservation Block Grants, and the State Energy Efficient Appliance Rebates Program.

**Purpose:** The purpose of this checklist is to assist the Trust Executive Director in evaluating the key management controls listed below. It is not intended to cover all controls.

**Instructions:** The Management Control Plan checklist will be completed by or under the direction of the Senior Accountant or the external auditor. Answers must be based on the actual testing of key management controls (for example, document analysis, direct observation, sampling, simulation). Answers that indicate deficiencies must be explained and corrective action must be identified in supporting documentation. These key management controls must be evaluated at least once every year.

1. Are all applications for grant assistance from the Trust screened by a comprehensive review team to assure compliance with applicable requirements of the National Environmental Policy Act (42 U.S.C. §§4321-4370a), National Historic Preservation Act (16 U.S.C. §470 et. seq.), wage requirements (Davis-Bacon Act); Buy American, whistleblower protection, and other ARRA requirements? [Section 1]
2. Are there sufficient checks and balances in place to ensure that no inappropriate expenditures take place? [Section 3.A]
3. Are Federal funds expended only on the authorized scope of energy projects, as set forth in ARRA and DOE agreement directives and/or the final approved contract? [Section 1.B]
4. Does the Trust prepare a complete and comprehensive analysis for each proposed project in accordance with ARRA directives to justify project, its site, and scope before commencing awarding procedure, and is it on file? [Sections 1 and 2]
5. Does the Trust fully coordinate with all functional proponents, and other appropriate staff elements to ensure the maximum functionality and usability of each project and to ensure that the project complies with all statutory, regulatory, and code requirements (e.g., environmental, Davis-Bacon Act, SHPO)?
6. Does the Trust thoroughly investigate alternative project applications to determine the most suitable projects, considering the core ARRA guiding principles, are approved for use of the funds? [Section 1.B]
7. Does the Trust fully and completely scope all projects before negotiating terms of a contract to potential awardees? [Section 1.C]

8. Has the Trust identified the total requirement, timelines, and deliverables, in order to provide for a project that maximizes the use of tax-payer money? [Section 1.C]
9. Does the Trust ensure that contracts follow published criteria or reflect requests for exceptions to criteria? [Section 1.C]
10. Are State Energy Program, Energy Efficiency and Conservation Block Grants, and the Energy Efficient Appliance Rebates programs scoped so that they will not exceed the statutory limits? [Section 1.C]
11. Has a contract been approved before Federal funds are applied against a project?
12. Are there controls in place to ensure that contracts are awarded per the Procurement Rule? [Section 1.D]
13. If required, does the Trust address all patents and intellectual property agreements before proceeding beyond contract negotiations?
14. Does the Trust update budget expenditures, payments, and invoices beginning with the contract award and monthly thereafter, until project completion, to reflect estimated and final project costs and in-progress costs? [Section 4.C]
15. Does the Trust record all obligations in a timely manner (as soon as contract is awarded and immediately upon receipt of funds?) [Section 4.C]
16. Does the Trust accounting properly distinguish between State Energy Program, Energy Efficiency and Conservation Block Grants, Energy Efficient Appliance rebate funds, and other ARRA funds? [Section 4.C]
17. Does the Trust properly calculate, account, and code, all funded project costs and appropriately enter the total? [Section 4.C]
18. Does the Trust only reimburse the sub-recipients for project costs that are not in excess of criteria or approved exceptions to criteria and that support the ARRA guidelines? [Section 3.B]
19. After funds have expired for a project, are only contract modifications within the scope of the original contract obligated against project funds?
20. Does the Trust conduct adequate field inspections and monitoring activities to ensure that projects meet the contract requirements? [Section 3]
21. Do the authorized Trust officials actually perform a final inspection to accept the project? [Section 5]
22. Does the Trust forward a completed and consolidated report for all SEP funded projects quarterly to the Office of Energy Independence and Security (OEIS) and the Office of the State Controller (OSC)? Are the reports timely and accurately reflect all projects? [Section 3.F]

## **Exhibits List**

Exhibit A – ARRA EECBG Contract Template with Terms and Conditions

Exhibit B - ARRA SEP Contract Template with Terms and Conditions

Exhibit C. - Standard Contract Template with Terms and Conditions

Exhibit D - Recipient Compliance and Site Visit Checklist

Exhibit E - Chapter 1: Contracting Process for Service Providers and Grant Recipients

Exhibit F – Checklist for Potential Grant Recipients

## 95-648 EFFICIENCY MAINE TRUST

### Chapter 1: CONTRACTING PROCESS FOR SERVICE PROVIDERS AND GRANT RECIPIENTS

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SUMMARY: This Chapter establishes the procedures governing the selection of service providers for energy efficiency and alternative energy programs administered by the Efficiency Maine Trust and the selection of grant recipients to receive funds administered by the Efficiency Maine Trust for energy efficiency and alternative energy projects. Grant recipients and most service providers will be selected by means of a competitive bid process conducted by issuing Requests for Proposals or similar documents. Some service providers may be selected without a competitive bid process, when another solicitation process is the most efficient and effective means to deliver programs administered by the Trust. The chapter also establishes the procedure to seek reconsideration of a selection decision.

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#### § 1 GENERAL PROVISIONS AND DEFINITIONS

- A. **Scope of Rule.** This rule establishes the procedures governing the selection of service providers for energy efficiency and alternative energy programs administered by the Efficiency Maine Trust and the selection of grant recipients to receive funds administered by the Trust for energy efficiency and alternative energy projects.
- B. **Definitions**
1. **Aggrieved person.** "Aggrieved person" means any person who bids in response to an RFP, RFQ or PON and who is adversely affected by the contract award decision made pursuant to the RFP, RFQ or PON.
  2. **Bid.** "Bid" means a response to an RFP, RFQ or PON.
  3. **Bidder.** "Bidder" means a person or entity that submits a bid.
  4. **Contract Administrator.** "Contract Administrator" means the employee of the Efficiency Maine Trust designated to administer contracts between the Efficiency Maine Trust and service providers, grant recipients and other vendors and consultants.
  5. **Program.** "Program" means an energy efficiency or alternative energy program developed or administered by the Efficiency Maine Trust pursuant to 35-A M.R.S.A. Chapter 97 or Chapter 99 or other applicable law.
  6. **Program Opportunity Notice.** "Program Opportunity Notice" means a document identifying the area or market sector of interest and the energy efficiency or alternative energy goals sought to be achieved. The document will solicit proposals on how the identified goals can be achieved. As a result of the Program Opportunity Notice, the Efficiency Maine Trust may choose one or

more bidders to work on one or more programs or projects. This document is also known by the initials "PON."

7. **Project.** "Project" means an energy efficiency or alternative energy project that is funded in part or in whole by a grant from the Efficiency Maine Trust.
  8. **Proposal.** "Proposal" has the same meaning herein as the term "bid."
  9. **Request for Proposal.** "Request for Proposal" means a document inviting proposals for and listing the scope of work being requested, other requirements of the Efficiency Maine Trust, and the technical evaluation criteria and cost evaluation criteria for selection of the winning bidder. The document is also known by the initials "RFP."
  10. **Request for Qualifications.** "Request for Qualifications" means a document listing the scope of work for the being requested, other requirements of the Efficiency Maine Trust, and the technical evaluation criteria for selection of the winning bidder. The document normally requires only a technical response. The Trust may select one or more bidders in response to a Request for Qualifications and then request cost proposals from or negotiate the cost terms of agreement with the qualified bidder(s). The document is also known by the initials "RFQ."
  11. **Service Provider.** "Service provider" means a public or private provider of energy efficiency or alternative energy services or an entity selected by the Trust to contract with such providers or otherwise arrange the delivery of programs. "Service provider" also includes entities that indirectly deliver energy efficiency or alternative energy services to customers, such as entities that process and pay coupons, and entities that provide assistance in performing program evaluations and other services required by the Trust to fulfill its duties under 35-A M.R.S.A. Chapter 97 and Chapter 99 and other applicable law.
  12. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. section 10103.
- C. **Computation of time periods.** All time periods prescribed in this rule are computed using calendar days, including Saturdays, Sundays and Federal holidays. The day from which the designated time period begins to run shall not be included in the computation. The last day of the period shall be included unless it is a Saturday, Sunday or Federal holiday, in which case the period runs until the next day which is not a Saturday, Sunday or Federal holiday.

## § 2 COMPETITIVE PROCUREMENT

- A. **Competitive Bidding Process.** Except as provided in Section 3, the Efficiency Maine Trust shall select service providers and grant recipients through a competitive bidding process. Competitive bidding processes shall be conducted by issuance of one of the following documents:
  1. Request for Proposals (RFP)

2. Request for Qualifications (RFQ)
3. Program Opportunity Notices (PON)

The processes shall be designed to maximize participation from qualified bidders.

**B. Development of RFPs/RFQs/PONs.** When the Efficiency Maine Trust is to select a service provider or grant recipient by competitive bid, it shall develop and issue an RFP, RFQ, or PON.

1. Each RFP and RFQ will contain sufficient information to permit bidders to develop responsive proposals. This information will include, at a minimum:
  - a. A description of the scope of work required;
  - b. The required content and format of the bids;
  - c. A list of the bid evaluation criteria and scoring weights to be applied;
  - d. The date, time and place that the proposal is due. Open solicitations may alternately specify a notice period for closing the solicitation;
  - e. The name, address, and contact information for the Efficiency Maine Trust contact person; and
  - f. A copy of the standard agreement or applicable alternative agreement as described in Section 4.

In each RFP or RFQ, the Trust will establish reasonable timeframes for the submission of bids, the evaluation of bids, and the selection of the winning bidders.

2. Each PON will be a formal request for programs or projects within an area or market sector that require bidders to detail their own approach to the PON's topic. A PON will describe the objectives of the program opportunity but the bidder is then responsible for providing a detailed statement of work that represents a solution to the opportunity outlined in the PON. Cost-sharing by the contractor may be required.

- C. Notice of RFPs, RFQs and PONs.** The Efficiency Maine Trust will maintain a list of interested persons who will be notified whenever the Trust issues a RFP, RFQ or PON related to a program or project. The Trust will reasonably advertise each RFP, RFQ and PON. Each RFP, RFQ or PON will be posted on the website maintained by the Trust.
- D. Written Questions and Pre-Bid Conferences.** The RFP, RFQ, or PON will specify the manner in which written questions may be asked. The Efficiency Maine Trust at its option may hold a pre-bid conference. Answers to written questions and to all questions raised at a pre-bid conference will be posted on the website maintained by the Trust.

- E. **Submission of Bids.** To the extent practicable, the Efficiency Maine Trust will accept bids electronically in response to RFPs, RFQs, or PONs. All timely submitted bids will be turned over to the Contract Administrator. The Contract Administrator shall keep a written record of the bidder's names, the date and time the bid was received, the cost/price of the bid and the bidder's contact person. The written record kept by the Contract Administrator shall be a public document as defined in 1 M.R.S.A. §401. The bids received in response to an RFP, RFQ or PON shall be treated as confidential and not subject to public disclosure from the date of submission until notification of the contract award by the Contract Administrator. After the notification of the contract award, the bids become public documents.
- F. **Rejection of Noncompliant or Untimely Bids; Rejection of All Bids.** The Efficiency Maine Trust shall reject all bids that do not comply with the requirements of this Chapter or the RFP, RFQ or PON, or that are not submitted before the deadline for submitting bids established pursuant to subsection B of this section. The Trust may reject all bids if it finds that the bids are unreasonably high in cost or that acceptance of any bid will not be in the public interest as determined by the Trust in accordance with the Triennial Plan and laws governing the Trust.
- G. **Evaluation and Selection.**
1. **Proposal Review Team.** Responses to each RFP, RFQ and PON will be reviewed and evaluated by an assigned Proposal Review Team. Each Proposal Review Team shall be comprised of a minimum of three persons. The chairperson of each Proposal Review Team shall be the Executive Director of the Efficiency Maine Trust, or the Executive Director's designee. The chairperson of each Proposal Review Team will select the other members of the Proposal Review Team. The other members may be members of the Trust staff or other persons who have training or experience relevant to the program or project for which the competitive bidding process is held.
  2. **Criteria.** Evaluation and selection criteria will be listed in each RFP, RFQ or PON. Criteria may include, but are not limited to:
    - a. Cost.
    - b. For service providers, to the extent practicable, the extent to which the proposal promotes the development of resources, infrastructure and skills within the State.
    - c. Experience and qualifications.
    - d. Responsiveness to the solicitation.
    - e. Other criteria as the Executive Director of the Efficiency Maine Trust may determine consistent with the Triennial Plan and the laws governing the Trust.
  3. **Bid Review.** Each member of the Proposal Review Team will individually review all bids based on the criteria established in the RFP, RFQ or PON. The

Proposal Review Team will document the scoring and the substantive information that supports the scoring, and select the winning bidder(s).

4. **Review Process.** The Proposal Review Team may take any of the following steps, either with respect to all of the bids received, or to a subset of bids selected as superior to the others:
  - a. Consult with prior clients on the performance of bidder or particular persons proposed for the program or project.
  - b. Schedule presentations or interviews with representatives of the bidder or persons proposed for the program or project.
  - c. Conduct a review of past performance, including a review of reports, analyses, or other materials that would reflect on the bidder's performance.
  - d. Request additional data or material to support bids from any or all bidders.
5. **Bidder Discussions.** The Proposal Review Team may review bids and award a contract based on the bids received without discussion with any bidders, or may conduct limited discussions or negotiations with all bidders or a selected subset of bidders determined to have presented superior bids. The Proposal Review Team may review and score bids after any amendments to the bids as a result of the discussions or negotiations. The Proposal Review Team may enter into price negotiations for a "best and final offer" with selected bidders, prior to contract award. The Proposal Review Team will not substantially change the nature of the proposals sought by the RFP without notifying bidders and permitting all bidders to modify their bids.
6. **Contract Award.** The Proposal Review Team may make one or more contract awards to fulfill the requirements of the RFP, RFQ or PON. The contract award will be made to the highest rated proposal or proposals that conform to the requirements of the RFP, RFQ or PON.
7. **Bid Rejection.** The Proposal Review Team may summarily reject any bid that it finds contains false or misleading material information. The Contract Administrator may bar any entity or person that has submitted false or misleading material information as part of a bid from participating in any contract award for a period of up to three years.
8. **Notification.** The Efficiency Maine Trust shall notify all bidders responding to an RFP, RFQ or PON of the contract award decision in writing, postmarked or electronically mailed a minimum of 14 calendar days prior to contract effective date.
9. **Contract Execution.** After 14 calendar days from the contract award notification, the Executive Director of the Efficiency Maine Trust, or the Executive Director's designee, shall execute a written contract with the winning bidder or bidders.

10. **Final Approval.** Standard agreements or other agreements, as described in Section 4, between the Efficiency Maine Trust and selected service providers or grant recipients shall be given final approval by the Executive Director of the Efficiency Maine Trust, at least seven calendar days prior to the proposed contract effective date.
  11. **Effective Date.** The effective date of the agreement shall be the date the Executive Director approves the agreement.
- H. **Delegations.** The authority to develop and issue RFPs, RFQs and PONs, and to otherwise administer the RFP, RFQ, and PONs processes as described in this section, is delegated to the Executive Director of the Efficiency Maine Trust.

### § 3 OTHER TYPES OF SOLICITATIONS

The Efficiency Maine Trust may select a service provider for one or more programs without employing a competitive bidding process if the Trust finds that the selection of the service provider by another solicitation process will promote the efficient and effective delivery of programs and is consistent with the objectives and overall strategy of the programs. Solicitations that do not employ competitive bidding processes may include:

- A. **Open Solicitations.** The Efficiency Maine Trust may use an open solicitation to select multiple service providers for a program through an ongoing solicitation process. The open solicitation specifies the qualifications and requirements the service provider is required to meet. Service providers meeting these qualifications must complete a cooperative program agreement, as described in Section 4(C), with the Efficiency Maine Trust to provide the specified services.
- B. **Sole Source Procurements.** The Efficiency Maine Trust may use a sole source procurement when: (1) the service provider has unique qualifications, resources, or experience; (2) there is not enough time to use a competitive bidding process; (3) the Trust finds that the program or required service would clearly benefit from a sole source procurement; or (4) the service provider is an identified partner in a grant proposal that has been submitted by and awarded to the Trust. The decision whether to use a sole source procurement for \$10,000 or less is delegated to the Executive Director of Efficiency Maine Trust. The decision to use a sole source procurement for more than \$10,000 will be made by the Efficiency Maine Trust Board, or may be delegated on case-by-case basis by the Efficiency Maine Trust Board.
- C. **Low-Income Service Providers.** For the delivery of conservation programs to low-income residential customers, the Efficiency Maine Trust may, without employing a competitive bidding process, use the delivery system of the Weatherization Assistance for Low-Income Persons Program administered through the United States Department of Energy and the network of for-profit and not-for-profit entities which deliver efficiency services to low-income and residential customers.

### § 4 TYPES OF AGREEMENTS

- A. **Standard Agreement.** Except as allowed in subsections B through E, contracts between the Efficiency Maine Trust and service providers or grant recipients must be in writing and use the Efficiency Maine Trust standard agreement form. The completed standard agreement must describe the service to be performed, the terms and conditions agreed to by the parties, the cost of the service and how payment will be made.
- B. **Memorandum of Understanding (MOU).** The Efficiency Maine Trust may use an MOU as an alternative to the standard agreement when implementing agreements with other government or quasi-governmental agencies.
- C. **Cooperative Program Agreement.** The Efficiency Maine Trust may use a cooperative program agreement as an alternative to the standard agreement when implementing agreements with multiple service providers under an open solicitation for a program.
- D. **Cooperative Agreements.** The Efficiency Maine Trust may use a cooperative agreement, or memorandum of agreement (MOA), when implementing agreements for cooperative efforts with the University of Maine System or the Maine Community College System.
- E. **Grant Agreement.** The Efficiency Maine Trust may use a grant agreement when awarding a grant to a group, organization or other recipient. The grant agreement must describe the terms and conditions and scope of performance or action which is expected of the grant recipient.

## § 5 APPEALS OF CONTRACT AWARD DECISIONS

- A. **Request for Reconsideration.** An aggrieved person may request a hearing for reconsideration of a contract award decision by filing a written petition with the Executive Director of the Efficiency Maine Trust within 14 calendar days of the notification of the contract award pursuant to Section 2(G)(8). The petition must meet the requirements of Section 5(B). When a petition is filed under this section, the Trust may not execute a contract with a winning bidder until the Trust has taken final agency action on the petition.
- B. **Petition.** Each petition for a hearing to reconsider a contract award decision must contain the award decision being appealed, the name of the aggrieved person, the facts that make the petitioner an aggrieved person and the specific nature of the grievance, including the Appeal Criteria specified in Section 5(D). The Chair of the Board or the Chair's designee shall grant a hearing to reconsider a contract award decision unless it is determined that:
  1. The petitioner is not an aggrieved person;
  2. The request was made more than 14 calendar days after notification of award; or
  3. The request is capricious, frivolous or without merit.

The Chair of the Board or the Chair's designee shall notify the petitioner in writing of the decision regarding the request for a hearing within 15 calendar days of receipt of the request. If a request for a hearing is granted, notification must be made at least 10

calendar days before the hearing date. The notification must include the date and location of the hearing and the names of the Appeal Committee members. In the event the request for hearing is denied, the notification shall constitute final agency action.

In the event that multiple petitions for a hearing to reconsider are granted on a single contract award, the Chair of the Board or the Chair's designee may, at its discretion, consolidate all petitions that relate to a single contract award decision.

- C. **Appeal Committee.** The Appeal Committee consists of a quorum of the Executive Committee of the Board or, as necessary due to conflicts of Executive Committee members, a quorum of the Board. A trustee who has served on the Proposal Review Team for a contract award may not serve on the Appeal Committee for an appeal of that award.

The Appeal Committee shall appoint a person to serve as presiding officer over the hearing. This person may be one of the Appeal Committee members or any other person who has no direct or indirect personal, professional or financial conflict of interest in the appeal. The presiding officer, if not from the ranks of the Appeal Committee, shall have no vote in the decision.

- D. **Review Criteria; Burden.** The Appeal Committee will review, hold hearings on and decide all petitions to reconsider contract award decisions. A petition to reconsider a contract award decision will be denied unless the petitioner persuades the Appeal Committee that in making the contract award decision, the Proposal Review Team:

1. Committed a material violation of statute or law;
2. Committed irregularities resulting in fundamental unfairness; or
3. Acted in an arbitrary or capricious manner.

The evidence presented must specifically address and be limited to one or more of these criteria. Evidence of any type that cannot be related to these criteria may be ruled inadmissible by the presiding officer.

The petitioner has the burden of demonstrating that reconsideration should be granted.

- E. **Hearing Participants.** The petitioner may participate alone or be represented by Counsel or other agent. The Proposal Review Committee shall be represented by the Trust and/or its counsel. Other contract award winning bidders may petition to intervene. Such petition to intervene shall be presented in writing to the Executive Director of the Trust who shall determine and allow or disallow participation in writing within 7 calendar days of receipt of the request to intervene. Copies of this notification of participation shall be sent to the Appeal Committee members, the presiding officer and the petitioner.

- F. **Hearing Procedures.**

1. The presiding officer shall control all aspects of the hearing, rule on points of order, and rule on all objections and may set time limits and question witnesses.

2. The petitioner must present evidence to substantiate the specific grievances stated in the appeal. Brief opening statements directed to the Appeal Committee may be made by the petitioner, the Proposal Review Team and any intervenors, in that order.
  - a. The petitioner shall present evidence first, using witnesses and exhibits who may be cross examined by the Proposal Review Team and the intervenors. Re-direct questioning related to issues raised during cross examination only may be done by the petitioner, followed by re-cross examination by the Proposal Reviews Team and intervenors.
  - b. Witnesses may be called who can present factual information related directly to the appeal. All witnesses shall be sworn. To expedite the proceeding, testimony of any witness may be pre-filed in written form. If used, pre-filed testimony must be made available to the Proposal Review Team, the Appeal Committee, presiding officer and all intervenors on the preceding work day, a minimum of twenty-four (24) hours prior to the hearing. Every such witness shall be subject to cross examination.
  - c. Exhibits relating to any issue of fact in the proceeding may be presented. Documentary evidence may be incorporated into the record by reference when the materials so incorporated are made available for examination by the parties before being received in evidence. The petitioner must furnish copies of all documentary evidence to the presiding officer, Appeal Committee, the Proposal Review Team and all intervenors. Any costs associated with this subparagraph are the responsibility of the petitioner and shall not be recovered by any judgement of the Appeal Committee.
3. The Proposal Review Team and all intervenors shall have the opportunity to submit evidence relevant to the appeal through witnesses and exhibits. The procedures for presenting this evidence are the same as those for the petitioner, substituting the words "Proposal Review Team" or "intervenor" for petitioner. The order of examination and cross examination when the Proposal Review Team presents evidence is Proposal Review Team, all intervenors, and the petitioner. The order of the examination and cross examination when an intervenor presents evidence shall be remaining intervenors (if any), the Proposal Review Team and the petitioner.
4. The Appeal Committee may ask questions for clarification at any point throughout the direct and cross examinations. In addition, the Appeal Committee may ask questions after the direct and cross examination, may request additional witnesses, and may recall any witness for additional questioning.
5. All evidence received or considered shall be part of the record. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The presiding officer may exclude irrelevant or unduly repetitious evidence. No sworn written evidence shall be admitted unless the author is available for cross examination, except for good cause shown.

- G. **Additional argument.** The Appeal Committee or presiding officer on its own motion or at the request of the petitioner may require additional written argument, hold an oral argument, or hold an additional hearing on the petition. The presiding officer shall invite a representative of the contract award winning bidder to participate in any additional review of a contract award.
- H. **Decision.** The Appeal Committee shall consider all evidence entered into the record and shall determine whether the petitioner has established by a preponderance of the evidence that one or more of the standards set forth in Section 5(D) of these rules has been proven. On the basis of the record, the Appeal Committee may:
1. Deny the petition to reconsider and uphold the contract award decision; or
  2. Reverse the contract award decision if it finds that the petitioner has made the demonstration required under Section 5(D) of these rules. If the Appeal Committee decides to reverse the contract award decision, the Efficiency Maine Trust Board may then:
    - a. Remand the matter to the original or a newly constituted Proposal Review Team to review the bids and award a contract consistent with the written decision of the Appeal Committee;
    - b. Decide to issue a new RFP, RFQ or PON and begin a new selection process; or
    - c. Decide not to proceed with the program or project.
- I. **Notice of Decision; Final Agency Action.** The Appeal Committee or the presiding officer if so designated by the Committee shall notify the petitioner, the Proposal Review Team and all intervenors of its decision in writing within 15 calendar days following the final day of the hearing. Notification of the decision of the Appeal Committee regarding the petition to reconsider a contract award decision constitutes final agency action.

## § 6 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Efficiency Maine Trust may to the extent permitted by law, where good cause exists, waive any of the requirements of this Chapter that are not required by statute, except for the requirements of Section 5 which may not be waived. Any request for a waiver from any requirement of this Chapter shall be made in writing to the Executive Director of the Efficiency Maine Trust. Upon a finding of good cause or that compliance with the requirement in question would be unduly burdensome, the Executive Director of the Efficiency Maine Trust or its designee may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the purposes of or impair the policies of this Chapter and of Title 35-A Chapter 97 or Chapter 99 and other applicable law.

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STATUTORY AUTHORITY: 35-A M.R.S.A. §§10105(4), 10105(5), 10110(3), 10111(3), 10119(3), 10154, 10155, 10159.

**EFFECTIVE DATE:**

This Chapter was approved as to form and legality by the Attorney General on September 29, 2010. It was filed with the Secretary of State on September 29, 2010, and will be effective on October 4, 2010.

# **EFFICIENCY MAINE TRUST**

## **Personnel Manual**

### **State Employees**



**MAY 4, 2011**

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# **PERSONNEL MANUAL FOR STATE EMPLOYEES**

## **OF EFFICIENCY MAINE TRUST**

### **MANUAL PURPOSE**

This manual sets forth philosophies and practices of employment under which employees of Efficiency Maine Trust (hereinafter referred to as Efficiency Maine) are expected to give their best service. It clarifies the organization's employment policies so that each employee may be treated fairly and equitably. This manual applies to employees who retained their status as State employees. In addition to this manual, state employment is also subject to the Civil Service law (5 MRSA Chapters 65, 67, 68, 69, 71, and 372), the Civil Service Rules, the State of Maine's Bureau of Human Resources publications and collective bargaining agreements, where applicable.

The effective operation of Efficiency Maine depends on the integrity and competency of its employees and board members and implementing the Triennial Plan adopted by the Board of Trustees. Overall policy is set by the Board of Trustees and administered by the Executive Director. Efficiency Maine reserves the rights to amend, alter, and make exceptions to these policies and procedures at any time consistent with the various external documents cited above. Statements or actions by any employee or agent of the organization that are contrary to these policies are not authorized and, to the maximum extent allowable by law, shall not be binding on the organization.

Should a conflict arise between (1) any provision contained in this manual and (2) State of Maine policies, Civil Service Law, Civil Service Rules, and/or applicable collective bargaining agreements, the provisions of Civil Service Law, Civil Service Rules and/or applicable collective bargaining agreements shall govern.

This document is distributed for informational purposes and does not constitute a contract between Efficiency Maine and its employees.

### **RESPONSIBILITY FOR THIS POLICY**

The Efficiency Maine Executive Director is responsible for ensuring the efficient use of systems according to this policy. The interpretation of, appropriate use of, and future revisions of this policy are the responsibility of the Executive Director in conjunction with the State of Maine Bureau of Human Resources.

## **ADOPTION OF THIS POLICY**

On May 4, 2011 the Board of Trustees at a regular business meeting adopted this policy and authorized the Executive Director to implement the policy and to make technical and minor changes without seeking additional authorization of the Board. The policy will be reviewed by the Governance Committee at least once per fiscal year for non-minor changes and/or updates which will be referred to the Board for final action:

# WORKING AT EFFICIENCY MAINE TRUST

## EQUAL EMPLOYMENT OPPORTUNITY

Efficiency Maine affirms that all persons are entitled to equal employment opportunity, regardless of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act or marital status.

Specifically:

- Employment opportunities are and shall be open to all qualified applicants solely on the basis of their experience, aptitudes and abilities.
- Advancement is and shall be based entirely on the individual's achievement, performance, ability, attitude and potential for promotion.

This policy of non-discrimination applies throughout every aspect of the employment relationship, including recruitment, selection, placement, advancement, training, compensation, transfer, layoff, and termination.

## DEFINITIONS

1. **Exempt position** - An exempt position is a position that is exempt from overtime compensation. Under existing collective bargaining agreements State employees may be entitled to contractual overtime (overtime after 8 hours in a day) in addition to statutory (overtime after 40 hours in a week).
2. **Non-exempt position** - A non-exempt position is a position that is paid hourly, with overtime paid for time worked beyond 40 hours during the work week. Under existing collective bargaining agreements State employees may be entitled to contractual overtime (overtime after 8 hours in a day) in addition to statutory (overtime after 40 hours in a week).
3. **Full-time Employee** means an employee normally expected to work at least the standard work week (40 hours) for the class and agency.
4. **Part-time Employee** means an employee working less than the standard work week for the class and agency, on regularly scheduled hours per week for the position.
5. **Probationary period** – A working test period during which a new employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position. The probationary period is defined as 6 months.
6. **Permanent Employee** means an employee who has been appointed to a position after successfully completing his probationary period.
7. **Temporary Appointment** means an appointment for a period not to exceed three (3) months.

8. **Limited Period Position** is a position, as authorized by the State Budget Officer, of other than project nature which, because of budgetary limitations, has a time limit set at the time of establishment.
9. **Seasonal Position** means a position established for less than full year periods and expected to be of a regularly recurring nature.
10. **Classified Employee** Most state government jobs are subject to the State of Maine Civil Service System. The basis for the civil service system is found in the Civil Service Law (Title 5, *Maine Revised Statutes Annotated*) and *Civil Service Rules*. Jobs that are subject to the civil service system are "**classified**" positions. The civil service system follows merit principles for equal employment opportunity and the selection and advancement of employees on the basis of fair and objective competition
11. **Unclassified Employee** Jobs that are excluded from the civil service system are "**unclassified**" positions. All unclassified positions have a basis in law and all unclassified positions are filled through the direct hire process. Employees who fill unclassified positions that are excluded from the collective bargaining process are appointed to serve at the pleasure of the hiring authority. Employees who fill unclassified positions that are covered by the bargaining process are subject to the tenure terms of their collective bargaining agreement.
12. **Compensatory time** – Compensatory time (comp time) is the grant of time-off with pay in lieu of overtime pay to compensate the employee for time worked in excess of 40 hours in a work week. Efficiency Maine does not provide comp time to employees in lieu of overtime pay nor to exempt employees who work in excess of 40 hours per week, unless provided by the Civil Service Law, Rules or any applicable collective bargaining agreement.
13. **Voluntary separation** – A voluntary separation occurs when an employee chooses to leave their position at Efficiency Maine.
14. **Involuntary separation** - An involuntary separation occurs when Efficiency Maine determines that it is in its interest to have the employee leave their position at Efficiency Maine.
15. **Layoff** – A layoff occurs when Efficiency Maine determines that it lacks the funding to maintain an employee's position or that a particular project for which the employee was hired is completed.
16. **Notice of Employment** – A notice from Efficiency Maine to new employees that includes confirmation of the position, starting salary, effective date of employment, and any other matters agreed to in the employment negotiations. This notice is not a contract for employment.
17. **Personnel Directory Information** – Information about an employee that is available to the public, including but not limited to name, title, office telephone number, business mobile number, fax number, business email address, and supervisor's name.
18. **Personnel Confidential Information** – Information about an employee that is not available to the public generally includes but is not limited to home address, home phone number, personal mobile number, salary, job performance review, personal actions including disciplinary actions, termination notices. Should a legal determination be made that any or all of this information is public and not confidential, that determination will control Efficiency' Maine's response to any request for such information.

- 19. Client or Customer Confidential Information** – Information about a client or customer that participated in an Efficiency Maine program unless release of that information is a disclosed condition of participation in the program or the client or customer has authorized release of the information in a press release, marketing material or other communication. Confidential information includes but is not limited to home or business addresses, home or business phone numbers, personal or business mobile numbers, program or project in which the client or customer participated, source and amount of funding used for the benefit of the client or customer. Should a legal determination be made that any or all of this information is public and not confidential, that determination will control Efficiency’ Maine’s response to any request for such information.
- 20.** For purposes of the **Family Medical Leave Act Policy**, the following definitions will apply:
- a. **“Spouse”** means a husband or wife as defined or recognized under Maine law.
  - b. **“Domestic Partner”** means the partner of an employee who:
    - i. Is a mentally competent adult as is the employee;
    - ii. Has been legally domiciled with the employee for at least 12 months;
    - iii. Is not legally married to or legally separated from another individual;
    - iv. Is the sole partner of the employee and expects to remain so;
    - v. Is not a sibling of the employee; and
    - vi. Is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.
  - c. **“Sibling”** means a sibling of an employee who is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements and joint financial arrangements.
  - d. **“Serious Health Condition”** means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

## **EMPLOYMENT**

### **Employment Status**

Due to the requirements of Efficiency Maine's enabling legislation, those employees at the Maine Public Utilities Commission who accepted positions at Efficiency Maine Trust had the option of maintaining their state employee status or of leaving state employment. For employees who maintained their status as state employees, their payroll and benefits are governed by the State of Maine law, rule and applicable collective bargaining agreement. Such employees are also subject to state holidays and state shut down or furlough days, or actions which state employees are required to take.

### **Civil Service System**

*The Maine State Civil Service System which governs the selection and advancement of employees within the Executive Branch of Maine State Government is based upon merit principles without regard to sex, age, race, color, religion, national origin, political affiliation, sexual orientation, and/or physical or mental disability. The State's Civil Service Law may be found in the Maine Revised Statutes Annotated (M.R.S.A.) Title 5, Chapters 65, 67, 68, 69, 71, and 372.*

*All positions within the Executive Branch of Maine State Government are classified using the State Classification Plan. Classified competitive and classified direct hire positions fall within civil service requirements. In general, the requirements do not apply to unclassified positions, although certain sections of the Civil Service Law do apply.*

### **State & Public Responsibility**

*Maine State Government exists to serve its citizens. As a State Employee, you will play a part in serving the public, and the way that you treat the public will greatly influence the public's perception of its State Government. As a public servant, courtesy is one of the most important parts of your job. Think of yourself as an ambassador.*

*Everything you say and do affects how Maine citizens feel about their government. Always keep in mind that the people you are serving do not always have the same knowledge that you do about a State program or service and very often need to be guided in their dealing with government. Every phone call you receive and every question that you are asked deserves a polite and prompt response. All questions are important, and very often, it is the small things that you do or say that will make people feel good about their government.*

### **Confidentiality**

*In the course of doing the State's business, the information that you have access to may be protected by confidentiality laws or security factors. Your access to confidential information may never be used for your personal gain or benefit. Further, you should never discuss confidential*

*information with other people except those who are entitled to this information by virtue of their office or position.*

*If you work with confidential information, your employing department will have particular regulations or expectations for the way you treat this information. Learn these regulations and expectations and follow them carefully.*

### **Conflict of Interest**

*A fundamental principle of Maine State Government is that State Employees are trustees for all the people. The public demands and deserves to be treated fairly, honestly and with integrity. It is very important, therefore, that you avoid any task, circumstance or outside employment that is in conflict with, or could be viewed to be in conflict with your State job. The basic State guideline that governs „conflict of interest“ is: You may not ask for or accept any good or service that has a monetary value from any person or business that does business or expects to do business with the State of Maine (advertising items of nominal value such as calendars and pens are not deemed to be gifts).*

*In addition, your employing department may have particular regulations or expectations that deal with or identify more specific concerns for your State job. As you might imagine, there are many gray areas in dealing with possible conflicts of interest. If you are ever in doubt concerning an activity at work or away from work, you should contact your supervisor or department head for advice.*

### **Privacy of Records**

*The Civil Service Law protects some information that relates to your employment in State Government. This protected information is confidential and not open to public inspection. Once you are employed by the State, personal information that is maintained in your individual personnel file (whether at your agency or the Bureau of Human Resources) such as your sex, age, race, home address, telephone number and your individual choices for life and health insurance plan options, payroll deductions and pension coverage is protected.*

*Other protected information that may be maintained in your personnel file includes: medical information, performance evaluations and personal references that were submitted in confidence, information relating to your credit worthiness and information pertaining to the personal history, general character or conduct of members of your immediate family. You will always have access to your own protected records and may sign a release form to authorize the release of your confidential records to another named person (e.g., a lawyer or physician).*

*Under authority of law, the Director of Human Resources may, upon request, authorize the controlled release of protected information when this information needs to be accessed by a department head, the department head's designee or the Office of Employee Relations in order to adequately represent the State as an employer. As an example, the Director of Human Resources may authorize controlled access of confidential records for contract negotiation*

*proceedings, fact-finding proceedings, grievance proceedings and other proceedings in which the State's legal interests are at stake.*

*Similarly, employee union organizations may be provided controlled access to protected information when these organizations need access to this information to adequately represent their employee members in grievance and other proceedings that are required by contractual agreements and the State's collective bargaining law.*

### Your Rights and Protections

*Your rights and benefits as an employee of the State of Maine are governed by Civil Service Law, the Civil Service Rules and the collective bargaining agreement for the bargaining unit to which your position may be assigned, in addition to other employment laws that affect all employees in Maine.*

*For information about services offered by the union, contact your workplace union representative or your Human Resources Representative. A list of HR Representatives can be found on the BHR Website at [www.maine.gov/bhr](http://www.maine.gov/bhr) and follow links to Employee Center and Personnel Officers ([www.maine.gov/bhr/employee\\_center/personnel.htm](http://www.maine.gov/bhr/employee_center/personnel.htm)).*

### Collective Bargaining

*If you are in a classified position assigned to the Administrative Services, Professional & Technical Services, Law Enforcement, Operations, Maintenance and Support Services, Supervisory Services, Maine State Trooper or Institutional Services bargaining units, you are exclusively represented for purposes of collective bargaining by either the Maine State Employees Association (MSEA), the Maine State Troopers Association (MTA), the American Federation of State County and Municipal Employees (AFSCME), or the Maine State Law Enforcement Association (MSLEA).*

*This is true whether or not you become a member of the applicable union. If you are a **classified employee** who is excluded from being in a bargaining unit (a „confidential“ employee), your rights and benefits are governed by Civil Service Law and the Civil Service Rules. A Benefits Package for Confidential Employees can be found on the Employee Relations webpage at [www.maine.gov/oer](http://www.maine.gov/oer).*

*If you are an **unclassified employee** in a position assigned to a bargaining unit, your benefits are governed by law and the contract for your bargaining unit.*

*If you are an **unclassified „confidential“ employee**, your rights and benefits are governed only by law. Should you have any questions about your rights and benefits, contact your Human Resources Representative.*

*(Excerpted from **State of Maine Employee Handbook**)*

The following apply to all employees unless otherwise agreed in writing. Employment is divided into two broad classifications based upon an employee's job description and responsibilities, which in turn determine the basis for compensation:

- An **exempt** position or
- A **non-exempt** position, as defined by collective bargaining agreement.

Exempt employees are expected to work the amount of time required to do their job. Generally, exempt employees are not eligible for the payment of overtime, with certain exceptions. Exempt employees who consistently work more than 40 hours per week and are not eligible to receive overtime compensation may request an adjustment in their daily work schedule. Exempt employees who work more than 40 hours occasionally may request time off during the payroll period when the excess hours were worked. The denial of time off or of an adjustment in daily work schedule is at the sole discretion of Efficiency Maine and the grant or denial of a request shall not constitute a precedent or labor practice for determining the outcome of future requests.

Compensatory time is offered if provided for in a collective bargaining agreement or other standards administered by the Bureau of Human Resources. Otherwise, employees may not claim future paid time off for excess hours worked during a work week nor may they be granted the use of compensatory time or other non-worked and paid time due to the accumulation of time worked in excess of 40 hours in any work week.

Exempt and non-exempt positions may be full-time, part-time, permanent, temporary, seasonal or limited period employees as defined above. An employee's status as full time, part time, permanent, temporary, seasonal or limited period employees will determine that employee's access to Efficiency Maine's fringe benefit package. For employees who take leaves of absence, the continuation of benefits depends upon the type of leave taken and any controlling statutes.

### **Conditions of Employment**

State employment at Efficiency Maine is at-will unless the Civil Service law, Rules or applicable collective bargaining agreement provide otherwise. Continued employment is subject to the availability of funding and satisfactory work performance. All employees are expected to maintain a positive work environment free of harassment or hostility. Employees who create a hostile work environment, in violation of the State of Maine Policy Against Harassment, the Maine Human Rights Act, or applicable federal laws prohibiting discrimination and harassment, will be disciplined and may be separated from employment at Efficiency Maine.

It is Efficiency Maine's intent that supervisory staff will provide employees with notice of deficiencies and opportunity for improvement via a plan of correction developed by the supervisor with the employee. Immediate dismissal may occur when the employee's action or inaction seriously jeopardizes Efficiency Maine as an organization, other employees, or the public interest toward which our mission is directed. Any action taken will be consistent with Civil Service Rules and collective bargaining agreements.

## **Executive Director**

The Executive Director is employed by and accountable to the Efficiency Maine Trust Board of Trustees. The Executive Director has the authority to hire, assign, and terminate employees. The Executive Director also has the responsibility to assure that all Efficiency Maine employees are treated equitably and fairly and with respect and dignity consistent with these policies. The Executive Director has the authority to designate another staff member to act in his/her place for either unlimited or limited periods of time, and for all or select duties and responsibilities, especially when the Executive Director will be out of the office for an extended period of time, such as vacation, extended sick or disability time or other extended absences.

## **Notice of Employment**

Each new employee will receive a notice of employment from Efficiency Maine. The letter will include confirmation of the position title, starting salary, effective date of employment, and any other matters agreed to in the employment negotiations. This notice is not a contract for employment but is meant to assure that the new employee and the Efficiency Maine have a shared understanding of the terms under which the employee has been hired. The employee will sign and return a copy of the notice which will become a part of the employee's personnel file.

## **Probationary Period**

Each employee will be hired for a probationary term of six months from the date of hire. The employee may be involuntarily separated from employment during the probationary period for failure to adequately perform. The employee will receive pay and benefits agreed upon at the beginning of employment or as provided for in the Civil Service law, Rules or applicable collective bargaining agreement. During and at the end of the probationary period there will be an evaluation of the job performance in conformance with the job description.

Permanent employment status will begin upon successful completion of the probationary period. Notice of satisfactory performance will be given no less than 15 days before the expiration of the probationary period. If the employee does not successfully complete the probationary period, the employee is subject to dismissal or the probationary period may be extended to allow the employee the opportunity to improve areas of deficiency. The Executive Director has the authority to extend the probationary period, if it is in the interest of Efficiency Maine to do so. Written notice of the intent to extend a probationary period will be provide no less that 15 days before the expiration of the probationary period.

## **Managing Job Performance**

Efficiency Maine ties together a number of methods to help employees do their best work. The process starts at the time of hiring and continues throughout employment at Efficiency Maine.

- 1 Orientation:** There shall be an orientation upon starting work at Efficiency Maine. That orientation should include such things as job description, job training, work goals and priorities, and a general overview of Efficiency Maine policies.
- 2 Evaluation:** The Efficiency Maine evaluation process is a systematic approach to managing work performance to meet the employee's need to know what is expected and how well the employee is performing. It is a positive approach to achieving both productivity and job satisfaction. The evaluation will be a formal written evaluation using the State's Performance Management form at least annually on or about the employee's anniversary date.
- 3 Promotion:** The individual development and growth of each employee is encouraged. The employee is ultimately responsible for his or her own job proficiency and career development, and is encouraged to seek the advice of his or her supervisor regarding interests and qualifications or training for additional responsibilities.

## **WORK ENVIRONMENT**

### **Hours of Work**

Efficiency Maine is open for business between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The standard work week for full-time employees is 40 hours unless a collective bargaining agreement establishes a different amount of time.

It is expected that non-exempt staff will not be working before or after their regular work schedule unless the Executive Director, or the Executive Director's designee, has given advanced approval. Due to the nature of Efficiency Maine's work, it may be necessary at times for an employee to work overtime or to change scheduled hours. This means that the employee must occasionally be flexible in his or her work schedule. All schedules and compensation will be in compliance with federal and state laws and applicable collective bargaining agreements.

Exempt employees are not eligible for the payment of overtime. Exempt employees who consistently work more than 40 hours per week may request an adjustment in their daily work schedule. An adjustment in daily work schedule is at the sole discretion of Efficiency Maine and the grant or denial of a request shall not constitute a precedent or labor practice for determining the outcome of future requests.

### **Work from Home**

Employees may work from home with approval of the supervisor subject to state executive orders or Bureau of Human Resources policies. The decision of the supervisor to allow or disallow work from home is in the sole discretion of Efficiency Maine. Employees who work from home are responsible for assuring the protection of any confidential or personal information as well as the equipment assigned to them. Given the vulnerability of wireless networks to hackers and others, the exchange or transmission of confidential or otherwise protected

information over an unsecured internet connection is prohibited unless all other means of communication have been exhausted and transmission of the information is extremely urgent. In general, transmission of sensitive information should be limited over public wireless systems. All work will be performed using Efficiency Maine provide equipment and by logging on through the VPN. Non-Efficiency Maine provided equipment will not be provide VPN access. Employees may access Efficiency Maine's e-mail service using Outlook Web Access (OWA) using non-Efficiency Maine provided equipment.

### **Inclement Weather**

State employees of Efficiency Maine are permitted to either not report for work or to leave the office early due to inclement weather when a decision to close State offices is made. The determination of pay for the time not worked is established by Bureau of Human Resources Rules or collective bargaining agreements.

The following bullets points were taken from a Cancellation of Workday memo dated December 28, 2010. These bullet points are illustrative only, as the State reserves the right to make changes consistent with governing policies and standards.

- State employees who do not report to work for their regularly scheduled shifts as the result of an announced cancellation will be provided paid administrative leave for all hours normally worked between the start and the end of their regularly scheduled workday.
- Employees who had received prior approval to use accrued leave credits or who were on an authorized leave shall have their full absences charged as originally approved.
- Administrative leave for storm closure is not considered time worked for purposes of overtime.

### **Emergency Closings**

If the office is officially closed prior to or during the workday due to an emergency condition and not inclement weather, the employee will be paid according to the policies of the Bureau of Human Resources.

### **Attendance and Promptness**

The employee must advise their supervisor as soon as possible if the employee is going to be absent or more than one-half hour late. If an absence is due to illness, the supervisor may request medical documentation from the employee's attending physician, as well as authorization to return to work, consistent with Bureau of Human Resources policies or as provided for in the applicable collective bargaining agreement.

## **Work Attire**

Efficiency Maine's office is accessible to the public and employees also perform a number of duties and attend meetings outside of the office. Employees' attire and appearance should be appropriate for a given occasion. The standard for office attire is business casual. The following clothing items are not considered appropriate business casual attire: sweat clothes, workout attire, shorts, flip-flops, and ripped, torn or unclean clothing or other attire that projects a less than professional appearance.

## **Personal Calendars**

Each employee will have shared access to personal calendars maintained on Outlook. Employees are responsible for maintaining their personal calendars up-to-date, especially with planned time out of the office or work from home dates.

Each employee should plan ahead as much as possible and update their calendar when that employee will be out of the office for:

- work at home
- work at other locations when the employee will not be in the office, or
- time off , whether paid or non-paid

Employees should notify their supervisor and the administrative assistant when they are out ill. The employee should update their calendar and the administrative assistant will send a notification email to the staff concerning the absence only. No personal information concerning the nature of the illness may be circulated..

## **Safety and Health**

Efficiency Maine provides a safe and healthy work environment. Each employee has a responsibility to ensure that safety and health considerations are an integral part of all operations, thereby preventing injuries, health hazards, and property damage.

Despite these precautions, an employee may have an accident and be injured on the job. If this occurs, the employee should immediately notify his or her supervisor, regardless of the injury's severity. Supervisors who are aware of an accident will take responsive action to assist the employee and decrease the likelihood of other similar or further injuries.

The supervisor who has received notice of an injured employee will immediately inform the Administration & Communication Manager who will initiate necessary Workers' Compensation forms.

## **Prohibition of Harassment**

Harassment of employees on the basis of race, color, sex, age, national origin, religion, physical or mental disability, sexual orientation, whistleblower activity, or assertion of a workers' compensation claim violates the law and/or the State of Maine's Policy Statement Against Harassment. All employees should be free to enjoy a working environment free from all forms of discrimination or harassment. It is the policy of the State and Efficiency Maine that unlawful or otherwise inappropriate harassment of or by employees and others has no place and will not be tolerated in the organization.

## **Smoking**

For the good health of all who work at or visit Efficiency Maine, smoking is prohibited at Efficiency Maine offices and property, and at its functions.

## **Firearms and Weapons**

The use, sale, distribution, possession or presence of firearms or weapons on the premises of Efficiency Maine is prohibited.

## **Drug-Free Workplace**

Alcohol may be consumed, when and where appropriate, in connection with social events on the premises of Efficiency Maine offices that are sanctioned by the Executive Director

The "Drug-Free Workplace Act of 1988" requires that grantees of federal agencies and most federal contractors certify that they will provide and maintain a drug-free workplace. Efficiency Maine maintains a strong commitment to provide a safe and healthy environment for its employees and the public they serve. Consistent with that commitment, Efficiency Maine will implement this policy for all employees to ensure a work environment free from the effects of drug abuse.

Efficiency Maine retains the right and responsibility to expect each employee to report for work and to perform his/her duties in a manner which does not jeopardize the health and safety of co-workers and the public. Work performance impaired by alcohol or drugs poses a threat to the well-being of employees and the public. Some of the drugs which are illegal under federal, state or local laws include marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current medical treatment by an accredited physician.

Employees may voluntarily seek assistance in dealing with drug or alcohol problems through the Employee Assistance Program (EAP). The EAP will provide consultation and referral to an appropriate treatment resource. Any employee may participate in the Employee Assistance Program without jeopardizing his/her employment status. However, voluntary participation in the Employee Assistance Program will not diminish appropriate disciplinary action for a violation of this or other policies.

Any employee who is under the influence of alcohol or illegal drugs on the job has the potential for disrupting his or her own, as well as co-workers', safe and efficient performance of duties. Employees under the influence of alcohol or illegal drugs on the job may be subject to disciplinary action up to and including termination of employment.

The illegal manufacture, distribution, dispensing, sale, use or possession of narcotics, drugs, or controlled substances is strictly prohibited on the job or in the workplace and shall constitute a dischargeable offense. Any illegal substance found in the workplace will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

Any employee who is convicted of a criminal drug statute violation occurring on the job or in the workplace shall notify the Executive Director no later than five (5) days after such conviction.

When any convicted employee is paid from federal funds the organization shall notify its federal funding agency within ten (10) days after receiving such notification. Upon notification of a conviction it shall be the responsibility of the Executive Director to terminate the employee.

It shall be the responsibility of Efficiency Maine to:

- (a) advise and inform employees of the dangers of drug and alcohol use and abuse on the job or in the workplace; and
- (b) advise and inform employees of the Employee Assistance Program and rehabilitation services.

It shall be the responsibility of each employee to abide by the terms of this work rule.

### **Expectations of Behavior**

Employees of Efficiency Maine have frequent interaction with state government officials, federal government officials; federal, state and local elected representatives, business representatives, public interest groups, the media and the general public, and all employees are expected to conduct themselves in a professional and business-like manner. Employees are expected to avoid situations that may create a conflict of interest and are expected to act in such a way as to not compromise the organization's effectiveness.

### **Separation from Employment**

There are several ways employment with Efficiency Maine could be terminated: voluntary termination, involuntary termination, and layoff.

- 1. Voluntary separation** – A voluntary separation occurs when an employee chooses to leave their position at Efficiency Maine. Such a termination should be accompanied by a letter of resignation or retirement and include a minimum two-week notice, unless another notice period is required pursuant to the Civil Service Law and Rules or an

applicable collective bargaining agreement. Employees may not work out their notice period using paid time off.

2. **Involuntary separation** - An involuntary separation occurs when Efficiency Maine determines that it is in its interests to have the employee leave their position at Efficiency Maine. Such a termination is generally immediate in nature, subject to the provisions of the Civil Service Law and Rules or an applicable collective bargaining agreement. Separating employees will be paid their earned and available paid time off through their separation date
3. **Layoff** – A layoff occurs when Efficiency Maine determines that it lacks the funding to maintain an employee’s position or that a particular project for which the employee was hired is completed. In the event regular positions must be cut due to lack of funding Efficiency Maine will provide incumbents with as much advanced notice as possible, given the circumstances. While Efficiency Maine intends to provide a minimum 30-days’ notice, it reserves the right to provide a shorter notice period if circumstances warrant, subject to the provisions of the Civil Service Law and Rules or an applicable collective bargaining agreement. The layoff notice will provide the employee with information about any separation package, if such a package is available. It is the intention of Efficiency Maine to pay separating employees their earned and available paid time off through their separation date.

# COMPENSATION AND BENEFITS

## PAY POLICY AND PRACTICES

### Policy

It is the general policy of Efficiency Maine to pay wages, which are competitive with what other organizations pay for comparable jobs and which are within the Efficiency Maine's resources, in order to attract and retain excellent employees who perform well. For employee's who maintained their status as state employees, their payroll and benefits are governed by the State of Maine. Such employees will be paid through the State Personnel System according to the payroll cycle established for the Maine Public Utilities Commission. That payroll cycle is subject to change as the State of Maine may determine.

### Payroll

Employees will be paid bi-weekly by check or direct deposit based upon the employee's submitted and approved bi-weekly time sheet. The employee's timesheet will be submitted to the supervisor before the last day of the payroll period, which shall run from Saturday through Friday. The timesheet will detail the employee's time worked, paid time off and non-paid time off. The employee will allocate the paid hours to the program or programs where the employee is assigned and/or worked.

Detailed information about pay period earnings, year-to-date earnings and deductions from pay will be distributed with the bi-weekly payroll and is also available upon request. As required by law, federal and state income taxes and FICA (Social Security) tax must be withheld. For employees who maintained their status as state employees, their payroll and benefits are governed, processed and reported by the State of Maine.

### Overtime

The federal Fair Labor Standards Act, and any applicable collective bargaining agreements, govern overtime pay, and non-exempt (hourly) and some non-exempt (salaried) employees are paid time-and-a-half for above 40 hours in a week (or 8 hours in a day, if applicable). Efficiency Maine attempts to structure the work schedule so that overtime by hourly employees is not normally required. Due to the nature of the work of Efficiency Maine, overtime work may be necessary from time to time, especially to complete special projects.

For non-exempt and certain exempt employees, the Executive Director, or the Executive Director's designee, must approve in advance all hours in excess of 40 per week. Overtime over 40 hours a week or hours worked on a paid holiday will be compensated at a rate of 1-1/2 times the straight hourly rate, unless otherwise provided in applicable collective bargaining agreements. Overtime is paid only on total hours actually worked.

Generally, exempt employees are expected to work the hours necessary to meet the responsibilities of their positions without compensation for overtime. It is recognized that this may include working evenings, weekends, and holidays.

## **EXPENSE REIMBURSEMENT**

Efficiency Maine's travel, mileage reimbursement and use of business credit card policies are fully stated in the Travel Policies. Those procedures and policies are controlling and employees are responsible for following and enforcing those policies.

## **TIME OFF**

For employees who maintained their status as state employees, their payroll and benefits are governed by the State of Maine. Such employees are eligible to earn and use sick, vacation, personal and compensatory time according to state policies and applicable collective bargaining agreements. The use of such time will be properly reported on the employee's bi-weekly time sheet.

### **Holidays**

Efficiency Maine observes twelve scheduled holidays for which the office is closed. A schedule of these holidays is published each December for the following calendar year. Provided that one is actively employed the day before and the day after the holiday, a full-time employee will be paid for these holidays. Part-time and temporary employees will be paid only if they are regularly scheduled to work that day.

New Year's Day	Martin Luther King, Jr. Day
President's Day	Patriot's Day
Memorial Day	Independence Day
Labor Day	Columbus Day
Veteran's Day	Thanksgiving Day
Thanksgiving Friday	Christmas Day

### **Leaves of Absence**

*Various types of leaves or approved time away from work are available to State employees. Please see your HR representative, or check the collective bargaining agreement pertaining to your position for more specific information. If you are a part-time employee, your HR representative can advise you regarding applicable pro-rated benefits.*

### **Vacation Leave**

*Vacation leave is based on an employee's length of service and is accrued as follows:*

- 0 — 5 years = 8 hours per month
- 6 — 10 years = 10 hours per month

- 11 — 15 years = 12 hours per month
- 16 — 20 years = 14 hours per month
- Over 20 years = 16 hours per month

#### *Confidential Employees*

- 0 — 5 years = 10 hours per month
- 6 — 10 years = 14 hours per month
- 11 — 15 years = XX hours per month
- 16 — 20 years = XX hours per month
- Over 20 years = XX hours per month

*Vacation leave is approved by your immediate supervisor. For organizational planning, when possible, leave should be requested as far in advance as possible. Vacation leave may not be unreasonably denied.*

*If you transfer to another appointing authority without interruption of service to the State, you have options for keeping and/or “cashing in” your unused accumulated vacation time. Contact your HR representative for more information.*

#### Sick Leave

*Sick leave credit is earned at the rate of one day (8 hours) per month regardless of your length of service. Sick leave may be used for valid illness, necessary medical or dental care or other disability of the employee or a member of the employee's immediate family which requires the attention of the employee or the presence of the employee.*

*A medical examination or doctor's certificate may be required on account of use of sick leave for five (5) or more consecutive workdays, or because of repeated absences on days preceding or days following a holiday or weekend.*

*An employee who transfers to another appointing authority without interruption of service to the State shall retain their accumulated unused sick leave credits.*

#### Childbearing and Adoption Leave

*Leave shall be granted to an employee without salary for a period not to exceed one year inclusive of any period of disability. Employees shall have the option of using accumulated compensating time and vacation leave during such period. Employees shall be allowed to retain insurance benefits at their expense during such a leave.*

#### Family and Medical Leave (FMLA)

*The State of Maine is covered by the State and Federal Family and Medical Leave Act laws. In accordance with these laws, eligible State Employees are provided up to twelve (12) weeks of Family and Medical Leave each year. Family and Medical Leave may be used for the birth and first-year care of a child, adoption/foster care placements, a serious health condition of the employee and the serious health condition of a spouse, parent or child of the employee. For*

*more information, please consult the Family and Medical Leave Policy for Employees of Maine State Government.*

### Jury Duty

*Employees of the State are entitled to leave with pay when called for jury service. Please contact your HR representative concerning jury service fees.*

### State Government Closure Days

*Public Law 2009, Chapter 213, Section SSS requires all executive branch state departments, agencies, and offices (except those operations determined to be exempt by the nature of the services provided as established by the Commissioner of DAFS) to be closed for 10 days in fiscal year 2009-2010 and 10 days in fiscal year 2010-2011. The dates identified for these closures can be found at [www.maine.gov/bhr](http://www.maine.gov/bhr).*

### Bereavement Leave

*Employees are allowed bereavement leave with full pay for absences resulting from the death of certain members of the employee's immediate family. Check with your HR representative for more details.*

### Military Leave

*Employees who are members of the National Guard or other authorized State military or naval forces and those employees who are members of the Army, Air Force, Marines, Coast Guard or Naval Reserve shall be entitled to a leave of absence from their respective duties without loss of pay. They shall accrue sick and annual leave and seniority during periods of annual training not to exceed seventeen (17) calendar days in any federal fiscal year.*

### Personal Days

*Personal Leave Days are authorized for employees in certain employment classifications. Your HR representative can advise you if you are entitled to Personal Leave Days.*

### Educational Leave

*The State of Maine is interested in its employees increasing their knowledge and skills and improving work techniques and procedures.*

*Educational leave requests are subject to the review and approval of your Department. Contact your HR representative to learn of your department's policies for participation.*

### Voluntary Employee Incentive Programs

*Voluntary Employee Incentive Programs (also known as Voluntary Cost Savings Programs) include Reduced Workweek, Sporadic Leave, Unpaid Leave and Flexible Position Staffing. For more information visit [www.maine.gov/bhr](http://www.maine.gov/bhr) and follow the links to Rules & Policies and Policy & Practices Manual ([www.maine.gov/bhr/rules\\_policies/policy.htm](http://www.maine.gov/bhr/rules_policies/policy.htm)). You may also contact your HR representative for more information.*

*(Excerpted from State of Maine Employee Handbook)*

Unpaid Personal Leave of Absence

Leaves may be approved for education or special and non-recurring events which require an employee's full-time attention. The request for a leave is directed to the employee's supervisor, who will consider the employee's work record, performance and work conditions at the time of the request. In most cases, a leave will be without pay, and paid time off will not accrue. (See "Employment Status" for more details.)

## FRINGE BENEFITS

Efficiency Maine will provide its state employees with the fringe benefit program authorized by the Civil Service law, Civil Service Rules, collective bargaining agreements or other standards as established or administered by the Bureau of Human Resources. The types of benefits and level of cost sharing are established by the State of Maine for the various job classifications and those benefits may change; as such the establishment and administration of the fringe benefit package for state employees is outside of the control of Efficiency Maine Trust.

### Health Insurance

*The State's health insurance is provided by **Anthem Blue Cross Blue Shield of Maine**. Split contracts are available for husband and wife and domestic partners who work for the state. Contact Employee Health and Benefits for more information at 287- 6780.*

### Annual Deductibles

*Deductibles are waived if services are billed by a preferred hospital. Annual deductibles: \$200 annual single person policy; \$400 annual 2 or more person policy.*

### Preferred Hospital Lists

*The State of Maine participates in the Maine Health Management Coalition [www.mhmc.info](http://www.mhmc.info) whose ratings of Maine Hospitals for safety and quality of care lower your costs when seeking services. The current list can be found at [www.maine.gov/beh](http://www.maine.gov/beh).*

### Vision Care

*A voluntary vision plan, **Anthem Vision** offers savings on frames, lenses or contact lenses with choices of network optometrists, ophthalmologists, opticians and retail providers.*

### Pharmacy Benefit

*Benefits are provided for prescription drugs through retail pharmacies and/or mail service. You may obtain prescriptions by utilizing your health insurance I.D. card. For each prescription, there is a tiered co-payment for both brand name and generic drugs.*

### Dental Insurance

*The State pays for dental coverage through Northeast Delta Dental and their network of providers for full-time employees, but the cost of dependent premiums is the responsibility of the subscriber. As the periods for enrolling dependents are limited, you should refer to your insurance handbooks for additional information. If you choose to receive services from an out-of-network dentist, the level of reimbursement, including the calendar year/ lifetime maximums will be lower. Visit [www.maine.gov/beh](http://www.maine.gov/beh) for a link to Delta Dental.*

### Making Changes

*Changes can be made to Health and Dental Policies within 60 days of hire, during the annual Open Enrollment periods and within 60 days of a "life event."*

For further information and questions, contact Employee Health and Benefits at 287-6780 or visit at [www.maine.gov/beh](http://www.maine.gov/beh) for information links.

## **Maine Public Employees Retirement System**

*When you retire, you may choose between receiving full benefits or receiving one of the several options that provide you with a reduced benefit and your beneficiary with a benefit as well. If you have chosen an option which includes concurrent payment to you and your beneficiary during your lifetime, a benefit will continue to be paid to your beneficiary after your death.*

*If you terminate covered employment, you may request a refund of your contributions plus any accrued interest. The contributions made on your behalf by the State are not refundable to you. If you terminate covered employment, withdraw your contributions, and subsequently re-join the System, you must accrue two continuous years of creditable service before you become eligible to purchase past creditable service. If your termination is the result of a layoff, the two year requirement is waived.*

*The Maine Public Employees Retirement System (MainePERS) was established to administer certain benefits that are available to employees of the State of Maine who are members of the MainePERS.*

*These benefits include:*

- *Service retirement benefits, which provide income to a member after the member retires;*
- *Disability retirement benefits which provide income to a member who becomes disabled (as defined by MainePERS law) while in service and before the member retires; and*
- *Death benefits, which are paid to a member's designated beneficiary (or family or estate, if no designation has been made) if the member dies before he/she retires. (The designated beneficiary is the person or persons a member has named to receive a benefit in such circumstances).*

*The following information is intended to familiarize you with the Maine Public Employees Retirement System. The contents cannot be taken as the basis for any contractual rights between the State and/or the System and its members. If there is a question of interpretation, the governing law is the final authority. Periodically, there are changes to the statutes and rules relating to MainePERS.*

### **Service Retirement Benefit**

*Most State Employees contribute 7.65% of their total earnable compensation into MainePERS. The State, on behalf of all State Employees, contributes an additional amount as a percentage of employees' total earnings.*

*You may retire at what is your „normal“ retirement age. This is age 60 for those who have had ten years of service or were age 60 with one year of service as of July 1, 1993. Those who did not have ten years of services on that date may retire at age 62, provided they either have 10 years of service when they reach that age or have been employed by the State for at least one*

*year immediately preceding retirement. You may also retire after you have twenty-five years of service and have not reached your normal retirement age; in this case, your retirement benefit will be reduced.*

*For more information about the following topics, visit [www.MainePERS.org](http://www.MainePERS.org), or call 512.3100 or 800.451.9800 and a representative will discuss your case with you.*

- *Basic Life Insurance and Accidental Death and Dismemberment Coverage*
- *Beneficiaries*
- *Dependent Life Insurance*
- *Disability Benefits*
- *Disabled Dependent Children*
- *Supplemental Insurance*
- *Survivor Benefits*

### **Deferred Compensation**

*Deferred Compensation (IRS Section 457b) Plans are available to all State Employees. You may enroll at any time to authorize a portion of your salary to be tax deferred into a plan annually. This option is a powerful adjunct to retirement plans, social security and other savings. You, the employee, work with a financial services vendor selected by the State to determine how to invest your tax deferred funds. You may defer a minimum of \$20 per pay period with an annual limit of \$16,500—\$33,000.*

### **Long Term Care Insurance**

*Long-term care insurance provides coverage towards assistance with day-to-day functions that may be provided at home, in a nursing home or in an assisted living facility. As a State Employee, you may enroll at any time. However, as a new employee, you may enroll within 60 days of your date of hire without needing to complete a medical questionnaire.*

*You can design a plan that suits your needs with premiums withheld from your bi-weekly paycheck. Visit <http://www.maine.gov/beh> and click on Long Term Care for more information. You may also contact Prudential Customer Service at 1.800.732.0416.*

### **Flexible Spending Reimbursement Accounts**

*Flexible spending accounts allow you to have funds deducted pre-tax from your bi-weekly paycheck to pay for either out-of-pocket medical expenses or dependent/elder care expenses. You should plan carefully, for this is a plan governed by IRS rules where you must use what you set aside within the annual time period.*

*Dependent Care Accounts have a \$5,000 annual limit and Health Savings Accounts (HSA's) have a \$3,000 annual limit. Both accounts require a small pre-tax. For more information, visit*

HR Support & Consulting at [www.hrseflex.com](http://www.hrseflex.com) call 1.866.655.5397, or visit [www.maine.gov/beh](http://www.maine.gov/beh) (click the Flexible Spending Accounts link).

### **Anthem Vision**

*A voluntary vision plan, **Anthem Vision** offers savings on frames, lenses or contact lenses with choices of network optometrists, ophthalmologists, opticians and retail providers. You may enroll within 60 days of hire, during the Open Enrollment period held every October or within 60 days of a life event.*

### **Capitol Campus**

*Capitol Campus is a partnership between Maine State Government and the University of Maine at Augusta, created to meet the specific educational needs of state workers. Five certificate programs are offered. Courses are held at convenient locations and times. For more information about Capital Campus and other educational opportunities, visit the Office of State Training & Development website at [www.maine.gov/bhr/statetng](http://www.maine.gov/bhr/statetng).*

### **Employee Assistance Program (EAP)**

*EAP was created with the aim to help State Employees and their families maintain their health and well-being. The State of Maine and the unions representing State Employees recognize that a wide range of problems not directly associated with an employee's work may have an adverse effect on an employee's job performance and health.*

*The State of Maine EAP offers assistance on a broad range of issues—marital or family discord, illness, financial difficulties, mental or emotional distress, alcohol or drug abuse, legal problems or other concerns. Administrative Leave time (up to eight (8) visits) is granted to participate in EAP services. The service will also provide assistance for additional services through Anthem Behavioral in the event further treatment is needed.*

***Participation in the EAP is on a voluntary basis.** Although supervisors, union officials and coworkers may encourage an employee to seek help, the decision to seek and accept assistance is the responsibility of the employee. **Participation in the EAP is strictly confidential.** All records and information regarding referral, diagnosis and treatment will be maintained by the EAP and treated as confidential. The program ensures that participant names and the nature of the problem are not available to supervisors, coworkers or anyone else.*

***The EAP is a service provided at no cost to participants.** If an employee is referred by the EAP to other professional services, the EAP will review the health insurance benefit plan to determine what, if any, costs must be assumed by the employee. Every effort will be made to refer employees to the least costly, highest quality resources available.*

*Contact Health Resources at 1-800-451-1834.*

## **Workers' Compensation**

*The Workers' Compensation system exists to assist employees who are injured on the job. The State of Maine Program is a self-insured program. This means that no insurance company is involved.*

***If you are injured on the job, you must inform your employer within 24 hours.*** You should be given an „Employee's Report of Injury" form and the "Certificate Authorizing Release of Medical, Health Information" by your supervisor. This paperwork should be completed regardless of the severity of the injury—it provides the foundation for your future action for accessing assistance (Worker's Compensation Claims), identifies workplace hazards and ensures that the State of Maine remains in compliance with the Worker's Compensation Board guidelines.

*Additional information can be found on the Employee Health & Benefits website ([www.maine.gov/beh](http://www.maine.gov/beh)), or check with your supervisor, your Workers' Compensation designee or HR representative. You may also contact Workers' Compensation at 287.6780.*

### **Workers' Compensation Return to Work Program**

*Under this program, the State's Return to Work Coordinator and the Workers' Compensation designees work together as a team to find positions in State Government that can be used by injured employees to regain their work capacity, to learn new skills or build on existing skills. The team's ultimate goal is to help injured employees to return to their pre-injury capacity or as close to that capacity as is medically possible. Please refer to Civil Service Bulletin 8.20B for further information.*

*(Excerpted from **State of Maine Employee Handbook**)*

## **PROFESSIONAL ADVANCEMENT AND IMPROVEMENT**

### **Employment Related Seminars and Training:**

Efficiency Maine supports employees' desire for continuing education when their attendance at seminars, and training sessions or courses can be expected to help in the performance of their job.

Considerations include:

- Maintaining an appropriate job certification
- Maintaining an appropriate professional certification
- Attaining an appropriate job certification
- Attaining an appropriate professional certification
- Learning about new programs or policies that affect either the job or Efficiency Maine
- Learning about job-related activities or requirements

An employee desiring to attend employment related seminars and/or workshops shall submit a request to the Executive Director via his or her supervisor. If approved, Efficiency Maine will pay in advance for the seminar/workshop. The employee is responsible for attending the event and must reimburse Efficiency Maine if he/she does not attend.

### **Employment Related Professional Associations:**

Employees may also submit a request for a job-related professional association membership. While it is the intention of Efficiency Maine to encourage membership and participation in professional associations and to pay the annual cost of a single professional membership, approval is at the sole discretion of Efficiency Maine.

Memberships in more than one professional association will be considered on an individual case basis. The requesting employee will need to make the case for why membership in more than one professional association is of value to the employee and to Efficiency Maine. Approval is at the sole discretion of Efficiency Maine.

## **OTHER POLICIES**

### **EQUIPMENT POLICIES**

#### **Use of Efficiency Maine branded or identified material, equipment and space**

Employees may use Efficiency Maine branded or identified material, equipment and space for job activities only. The Efficiency Maine branding and its equipment and materials may not be used for political or personal purposes, or for commercial purposes that are not directly related to the work of efficiency Maine.

Such branded materials included, but are not limited to:

- Efficiency Maine Logo
- Efficiency Maine letterhead stationery
- Employee's title at Efficiency Maine on non-job related communication that could be construed as an endorsement
- Efficiency Maine's name, address, phone and fax numbers, email address,
- Efficiency Maine website
- Efficiency Maine endorsement of any good, service, provider, political candidate or other non-job related endorsement
- Efficiency Maine branded advertising give-aways
- Equipment owned or leased by Efficiency Maine
- Space leased or owned by Efficiency Maine

Where there is a question, employees should seek direction from their supervisor or senior management before taking action. All such decisions should err on the side of caution. Any inadvertent misuse of the Efficiency Maine brand should be immediately reported to the Executive Director or designee.

#### **Efficiency Maine Supplied Equipment**

Efficiency Maine will provide employees with the equipment necessary to accomplish the job for which the employee was hired including laptops or personal computers. Employees are expected to use the equipment as intended and to treat it in a manner which will assure its longevity and continued use. Intentionally misuse or abuse of equipment will cause the employee to surrender the equipment upon request. All equipment assigned to an employee will be returned in good order, except for normal wear and tear, upon termination or request.

Employees will be provided Internet access for job-related use. Intentional misuse or abuse of Internet access will lead to the termination of access. Efficiency Maine reserves the right to periodically audit the contents of the laptops and personal computers and personal drives to be assured that no unlawful content has been stored on the employee's computer or the server, no matter how the content was delivered. Any unlawful content found will require the immediate surrender of the computer and referral to law enforcement authorities.

Equipment provided and individually assigned may include some or all of the following items:

- Desk or work surface and chair
- Cabinet(s)
- Storage shelves or units
- Desk telephone
- Desk top calculator
- Laptop computer, docking station and monitor with internet access
- Mobile devices (Blackberry or similar device) with internet and e-mail access
- Cell phone
- Virtual Private Network (VPN) access to supplied laptop, only

Employees may not provide or utilize their own equipment to conduct the business of Efficiency Maine except in the case of Blackberry or similar devices or cell phones, with permission of the Executive Director or designee. In the case of approved use of personal mobile devices or cell phones Efficiency Maine will provide at its cost a service plan the same as or similar to the plan being provided for Efficiency Maine provided equipment.

### **Mobile Devices**

Mobile devices may be issued when it is more cost effective and efficient than landlines/desk phones, or pagers or where the employee's ability to communicate remotely from the office is integral to their ability to perform their job. The term mobile device includes mobile phones, cell phones, Blackberry devices, smart phones, and other Personal Data Assistant (PDA) devices, with cellular communications capability. Mobile devices assigned to an employee will be returned in good order, except for normal wear and tear upon termination or request.

Eligibility: Mobile devices shall be issued based on one or more the following job requirements:

- Employee's job requires field work where landline phones are inaccessible or inefficient
- Employee's job requires immediate or on-call availability
- Employee's job requires travel and availability via cellular device

Efficiency Maine devices are issued to an individual for their job functions and remain the property of Efficiency Maine. The downloading of applications is limited to job-related applications only, and any applications or contents downloaded or stored on the device is the property of Efficiency Maine.

Job-related applications must be approved by a supervisor before the application and any subscription costs are incurred and become the responsibility of Efficiency Maine. If an employee downloads an application that is not job-related and that has a cost either for the download or an ongoing subscription cost, the employee will discontinue the service and will reimburse Efficiency Maine for all costs incurred by the application. Any application, whether or not it is job-related and/or authorized by Efficiency Maine that contains offensive or unlawful material will be removed immediately by the employee without waiting for direction.

Efficiency Maine reserves the right to periodically audit the contents of the device to be assured that no unlawful content has been stored on the device, no matter how the content was delivered to the

device. Any unlawful content found will require the immediate surrender of the device and referral to law enforcement authorities.

## **PERSONAL PHONE CALLS**

While Efficiency Maine recognizes the need for personal phone calls, these calls should be kept to a minimum frequency and time length. Under no circumstances is the toll-free number to be used for incoming personal calls. Excessive personal telephone use interferes with work flow and ties up the company lines.

## **USE OF CONTACT AND CONFIDENTIAL INFORMATION**

Efficiency Maine staff has a responsibility for protecting confidential information. Such information includes certain personnel, and client or customer information. Confidential client or customer information includes acknowledgement of participation in a program unless release of that information is a disclosed condition of participation in the program or the client or customer has authorized release of the information in a press release, marketing material or other communication.

Prior authorization by the Executive Director, Program Director or Chief Financial Officer, or their designee, is required for all list serve use including email lists and lists of names and addresses.

Employees are not to use Efficiency Maine list serves for non-job related activities, nor are such lists to be sold or conveyed to anyone outside of Efficiency Maine unless the third party is a contractor or consultant with a valid need for access to that list. Approval for access is through the Program Director. In the case of mailing lists that have names and address of persons, especially those who have received services through Efficiency Maine, confidentiality and personal privacy are of utmost concern.

Where there is a question, employees should seek direction from their supervisor or senior management before taking action. All such decisions should err of the side of caution. Any inadvertent misuse of the Efficiency Maine list serve should be immediately reported to the Executive Director or designee.

## **INTERNET, ELECTRONIC MAIL AND VOICE MAIL POLICY**

Electronic Mail (email) and voice mail are corporate assets and critical components of communication systems. The email and voice mail systems are provided by the company for employees to facilitate the performance of company work and their contents are the property of Efficiency Maine. Efficiency Maine management reserves the right to retrieve the contents for any reason, including but not limited to finding lost messages, to comply with investigations of wrongful acts, or to recover from system failure.

Personal use of email or voice mail by employees is allowable, but should not interfere with or conflict with business use. Employees should exercise good judgment regarding the reasonableness of personal use. Any personal use must be of an incidental nature and not interfere with business activities. Personal use must not involve solicitation, must not be associated with any outside business activity or personal gain, must not be libelous or defamatory, must not violate the State of Maine's or Efficiency Maine's Policy on Employee Harassment, must not potentially embarrass the State of Maine or Efficiency Maine, its Trustees, Executive Director, stakeholders, grantor agencies or its employees or be used for any unlawful purpose. Copyright restrictions and regulations shall be observed. The information communicated over agency e-mail systems is subject to the same laws, regulations, policies, and other requirements as information communicated in other written forms and formats and is not to be utilized for political purposes.

### **E-mail Use Privacy and Access**

E-mail messages are not personal and private. Managers, supervisors, and technical staff may access an employee's e-mail for reasonable business purposes, including but not limited to:

- for a legitimate business purpose (e.g., the need to access information when an employee is absent);
- to diagnose and resolve technical problems involving system hardware, software, or communications; and/or
- to investigate possible misuse of e-mail when a reasonable suspicion of abuse exists or in conjunction with an approved investigation.

Additional requirements include:

- An employee, with the exceptions noted above, is prohibited from accessing another user's e-mail without his or her permission.
- *All e-mail messages including personal communications* may be subject to discovery proceedings in legal actions.
- *All e-mail messages* sent or received and which are not otherwise protected by law, are public documents and may be released to the public under the Freedom of Access Law.
- Employees are not to conduct agency business through or access personal e-mail accounts from supplied equipment or during the work day.

- In very rare instances, such as if the Efficiency Maine server crashes and normal email cannot be restored, personal email accounts maybe used.

## **E-mail Security**

E-mail security is a joint responsibility of technical staff and e-mail users. Users must take all reasonable precautions, including safeguarding and changing passwords, to prevent the use of their e-mail account by unauthorized individuals.

## **E-mail Communications Management and Retention**

### Applicable to all e-mail messages and attachments

Since e-mail is a communications system, messages should not be retained for extended periods of time.

Users should:

- remove or archive all e-mail communications in a timely fashion, and,
- delete records of transitory or little value that are not normally retained in record keeping systems as evidence of an agency's activity.

### Applicable to records communicated via e-mail

E-mail created in the normal course of official business and retained as evidence of official policies, actions, decisions or transactions are records and are subject to the records management requirements documented by the Maine State Archives. (A copy of the Maine State Archives' *State of Maine E-Mail and Voice Mail retention Guide 2008* is available in the office and should be reviewed by employees). Records communicated using e-mail need to be identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements.

Examples of messages sent by e-mail that typically are records include:

- policies and directives
- correspondence or memoranda related to official business
- work schedules and assignments
- agendas and minutes of meetings
- drafts of documents that are circulated for comment or approval
- any document that initiates, authorizes, or completes a business transaction
- final reports or recommendations
- Some examples of messages that *typically do not constitute records* are:
- personal messages and announcements
- copies or extracts of documents distributed for convenience or reference
- phone message notes

## **Roles and Responsibilities**

- Executive management will ensure that the policy is implemented by staff
- The Administration Division will develop and/or publicize record keeping practices in their area of responsibility including the routing, formatting, and filing of records communicated via e-mail. They will train staff in appropriate use,

including appropriate personal use of e-mail that does not result in performance issues, and be responsible for ensuring the security of physical devices and passwords.

- The Administration Division is responsible for e-mail security, backup, and disaster recovery.
- Users are responsible for adherence to this policy.

### **Proper Usage**

- All e-mail users will understand and comply with this policy, including but not limited to:
  - understand that personal use must be of an incidental nature only
  - comply with agency and unit policies, procedures, and standards
  - protect confidentiality
  - be aware that sending e-mail of a political nature (supporting candidates, soliciting contributions, etc.) is against the law and subject to criminal penalties (5 U.S.C. §1501 et seq., and 5 M.R.S.A. §7056-A 5 M.R.S.A §1976)
  - immediately delete any chain letters received through the e-mail system
  - protect their passwords
  - respond to e-mail in a timely fashion
  - do not in any way use e-mail access or transmit prohibited content of a sexual nature
  - delete any messages that may contain offensive material and report to management
  - remove personal messages, transient records, and reference copies in a timely manner.
  - not use e-mail for outside business activity or personal gain
  - observe all copyright restrictions and regulations
  - not use e-mail for any unlawful or illegal purpose
  - not use e-mail to promote discrimination on the basis of race, religion, national origin, disability, sexual orientation, age, marital status, gender, or political affiliation
  - not create e-mails that may be defamatory or libelous
  - consider organizational access and retention requirements before sending, filing, or destroying e-mail messages
  - be courteous and follow accepted standards of etiquette
  - must not use the e-mail system to solicit for causes unrelated to agency business
  - must not knowingly send or receive e-mails that contain a virus

### **Violations of this policy**

Any violation of this policy could result in disciplinary action up to and including termination.

Use of email and voice mail is limited to employees and authorized vendors, temporaries, or contractors. Employees and authorized users are responsible to maintain the security of their accounts and their passwords.

Efficient use of the email and voice mail systems suggests that messages should be concise and directed to individuals with an interest or need to know.

Misuse of email and/or voice mail can result in disciplinary action up to and including termination.

Examples of misuse include the following:

- Transmitting offensive material over any company communication system which violates our harassment policy or creates an intimidating or hostile work environment is prohibited.
- Use of company communications systems to set up personal businesses or send chain letters is prohibited.
- Company confidential messages are to be distributed to Efficiency Maine personnel only. An exception exists for authorized contractors such as attorneys representing Efficiency Maine or lawful requests.
- Forwarding confidential message to locations outside is prohibited.
- Accessing copyrighted information in a way that violates the copyright is prohibited.
- Breaking into the system or unauthorized use of a password or mailbox is prohibited.
- Broadcasting unsolicited personal views on social, political, religious or other non-business related matters is prohibited.
- Solicitation to buy or sell goods or services is prohibited.

**As a reminder: Employees should never presume that their email or voice mail messages are personal and private.**

## **SOCIAL MEDIA POLICY**

### **Statement of Policy**

Efficiency Maine may use social media technologies to enhance communication, collaboration, and information exchange with citizens under the following guidelines and procedures.

### **Purpose**

The purpose of this policy is to define the use of social media by Efficiency Maine employees while contributing to or overseeing agency social media sites or providing comments or updates to the agency's social media identities.

In addition to this policy, social media content must be in compliance with all Efficiency Maine policies. This includes policies on harassment and discrimination, confidentiality, ethics, and workplace violence, along with any applicable codes of conduct.

### **Guidelines and Procedures**

The Communications Director will oversee all social media requests and interactions. Employees shall consult with the Communications Director prior to engaging in social media to ensure that participation and representation on social media sites is sanctioned. Legal counsel should be sought, when appropriate, prior to the agency engaging in social media.

### **Social Media Use**

**Required Work-Related Use:** This includes use of social media that is sanctioned as part of employee's job function (e.g. when an employee, as part of their job responsibilities, tweets on behalf of the Efficiency Maine on the Efficiency Maine's Twitter account). When this type of use is authorized the Efficiency Maine must ensure that:

- Any social media sites used by Efficiency Maine to provide information must be established in the name of the Efficiency Maine.
- Any information posted is authorized by the Communications Director.
- Only authorized employees post information on e Efficiency Maine sites.
- Information posted is in compliance with Efficiency Maine's Terms of Comment.
- Personal opinions are not to be posted on Efficiency Maine sites.
- The purpose for using the social media site is defined and understood by any authorized poster.
- Any authorized poster monitor the social media site to ensure compliance with this policy and all other applicable Efficiency Maine polices.
- Any authorized poster and the Communications Director remove any scandalous, libelous, defamatory, pornographic, etc. material that is posted.

- A process will be instituted to save and retain all postings, outgoing and incoming, as all posted material is a public record.
- Personal use at work: This includes personal use of social media while at work by an employee (e.g. logging onto Facebook and providing personal updates to a Facebook page or Twitter account during work hours using their own or their Efficiency Maine's information technology resources, when such activity is outside of the employee's official job function).
- Any such use shall be consistent with the [Policy Concerning the Use of State-Owned Information and Technology \(I.T.\) and Related Communications Equipment and Resources](#) and any additional use policies adopted by Efficiency Maine.
- Excessive personal use of social media during work hours is prohibited.
- Personal use outside of work: This includes use of social media by an employee in his or her personal capacity outside of work.
- Employees are prohibited from posting official Efficiency Maine information on his or her personal media site.
- Employees' personal use should not be attributable to Efficiency Maine or employee's job function at Efficiency Maine.
- Efficiency Maine's and the State of Maine's harassment and discrimination policies, confidentiality policies, ethics rules, code of conduct, and workplace violence policies are applicable to all social media usage.

Agencies linking from an Efficiency Maine web page to a non-Efficiency Maine social media site or landing page must indicate to users that the site is not an official Efficiency Maine site and that a third party's website policies apply.

Social media participants must abide by laws governing copyright and fair use of copyrighted material owned by others. Entire articles or publications should not be reprinted without first receiving written permission from the publication's author/owner. Never quote more than a short excerpt of someone else's work and, if possible, provide a link to the original. When referencing a law, regulation, policy, or other website, if possible, provide a link or the citation.

Social media sites contain communications sent to or received by Efficiency Maine and are therefore public records subject to State Records Retention law. These retention requirements apply regardless of the form of the record (digital text, photos, audio, or video, for example). See the record managements section of the Secretary of State's website for full details: <http://www.maine.gov/sos/arc/records/state/index.html>. Efficiency Maine must ensure that it retains a copy of the social media content in accordance with the State's records retention requirements. Efficiency Maine must review the social media service provider's terms of service for its records retention practices. While social media providers may save content for some period of time, they generally will not save it indefinitely. To the extent that the social media providers' policies are inconsistent with Maine's records retentions requirements, Efficiency Maine must retain its own copies of social media posts.

The Communications Director is to be aware that social media providers may incorporate advertisements into its site. State procurement and ethics laws prohibit employees or agencies from endorsing products or vendors and these standards will be observed by Efficiency Maine.

Efficiency Maine must limit its association with advertising by (1) amending the Terms of Service of the social media provider if possible; (2) using, whenever possible, non-branded landing pages within the social media website or (3) not joining the social media site.

### **Applicability**

This policy applies to social media activities at Efficiency Maine. As the technology evolves, this policy may be amended to ensure consistency in the use of technologies by state employees. As Efficiency Maine makes the decision to participate in social media activities, it is responsible for the information contained in the following documents, and the effective incorporation of this information into updated policy and procedures. All federal and state statutes and policies apply including:

- ***Section 508 of the Rehabilitation Act of 1973***
- ***Accessibility Policy on Effective Electronic Communications***
- ***Information Technology Security Policy (PDF), Web Accessibility Policy for the State of Maine***
- ***Policy on Access to Data and Information on State Owned Computer Devices***
- ***Policy Concerning the Use of State-Owned Information and Technology I.T.) and Related Communications Equipment and Resources***
- ***Maine State Archive - Record Retention Schedules***
- ***Maine's Freedom of Access Act***

### **Responsibility**

The Communications Director will:

- authorize specific employees to post, update and monitor the Efficiency Maine's social media identity or page,
- create a Terms of Comment which will describe how the Efficiency Maine intends to manage user contributions to the Efficiency Maine's social media site (such as an Efficiency Maine's wiki or a blog). The Terms of Comment shall also describe the review process prior to posting comments and the selection criteria for comment posting (e.g. on-topic, non-duplicative, not obscene or offensive etc.). Comments shall be monitored by authorized Efficiency Maine staff. The Terms of Comment must be provided to each employee authorized by the Communications Director to post information on behalf for the Efficiency Maine,
- clearly indicate to employees and public users when social media used by the Efficiency Maine is hosted by a third party that has its own privacy policy and terms of service, and
- Advise employees using social media sites that social media providers used by the Efficiency Maine may collect personal information through use of the social media site;

that this personal information will be disseminated online via the social media site; and that its dissemination will not be subject to the restrictions described in State of Maine technology policies.

## **Definitions**

- **Landing page** - A landing page is the page website visitors arrive at after clicking on a link on another website. It could be a home page, or any other page in a site.
- **Social Media Identity** – A social media identity is a user identity or account that has been registered on a third party social media site.
- **Social Media or Networking** – The terms social media and social networking are used interchangeably. Social media is a set of technologies and channels targeted at forming and enabling a potentially massive community of participants to productively collaborate. Social media includes: blogs, wikis, microblogging sites, such as Twitter™; social networking sites, such as Facebook™ and LinkedIn™; video sharing sites, such as YouTube™; and bookmarking sites such as Del.icio.us™.
- **Social Media Sites** – Social media sites refer to websites that facilitate user participation, networking and collaboration through the submission of user generated content.

**Social Media Supervisor** - The Communications Director will function as the Social Media Supervisor. The Social media Supervisor is an individual within an Efficiency Maine who oversees all Efficiency Maine social media sites and ensures compliance with this and all other applicable Efficiency Maine policies. This individual is responsible for authorizing employees to post on Efficiency Maine sites and for the content of such postings.

## **POLITICAL ACTIVITY**

Efficiency Maine is an independent state agency that receives federal funding. As such it and its employees, whose positions are federally funded, are subject to the federal Hatch Act, which addresses political activity by federal and federally-funded employees. In addition, state employees of Efficiency Maine are subject to the provisions of state law regarding political activity as well. *See State of Maine, Department of Administrative & Financial Services, Bureau of Human Resources, Civil Service Bulletin 13.1K for specific information regarding state and federal law prohibitions on political activity. That bulletin follows:*

### ***DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES BUREAU OF HUMAN RESOURCES***

***September 16, 2010***

#### **CIVIL SERVICE BULLETIN 13.1K**

***TO: AGENCY HEADS, HUMAN RESOURCE DIRECTORS***

***SUBJECT: RE-ISSUE OF POLITICAL ACTIVITY GUIDELINES FOR EXECUTIVE  
BRANCH EMPLOYEES (SUPERSEDES CIVIL SERVICE BULLETIN 13.1J)***

#### **GENERAL INFORMATION**

*Political activity of state employees in the Executive Branch is regulated by state and federal law. The purpose of Civil Service Bulletin 13.1K is to guide state employees in the Executive Branch with their political activity decisions by referencing key political activity laws, by defining which state employees are covered by these laws, and by identifying certain activities that are prohibited and allowed. Civil Service Bulletin 13.1K provides a quick reference for political activity concerns and issues. It is not all-inclusive and is not intended to replace the federal and state laws that govern political activity. State employees in the Executive Branch who have questions after reading these guidelines should read the full text of the state and federal laws and seek legal assistance if necessary.*

*Generally, the state and federal political activity laws are enacted to:*

- Prohibit covered state employees in the Executive Branch from becoming candidates for elective office in a partisan public election<sup>1</sup> while employed by the state; and*
- Allow covered state employees in the Executive Branch the freedom to express and practice their individual political opinions and ideas, subject to limitations based on the possible misuse of the covered state employee's position or authority or the possible misuse of state property and facilities.*

#### **STATE AND FEDERAL LAWS**

*The key laws that regulate the political activity of state employees in the Executive Branch are:*

- *State employees in the classified and unclassified service of the Executive Branch are regulated by state law, Title 5 MRSA, § 7056-A. This state law applies to all classified employees and all unclassified employees of the Executive Branch except the Governor or any other elective officer in the Executive Branch, the constitutional officers (Attorney General, State Auditor, State Treasurer, and Secretary of State) and those employees who are directly appointed by them.*
- *State employees in the classified service and all state employees in the unclassified service of the Executive Branch whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants are also regulated by federal law. [United States Code, Title 5, Chapter 15 - Political Activity of Certain State and Local Employees.]*

*NOTE: Classified and unclassified employees who are on an authorized leave from their position remain state employees and continue to be covered by these state and federal laws. For example, a state employee may not take an unpaid leave of absence and compete in a partisan public election.*

#### **ACTIVITIES PROHIBITED BY STATE LAW**

*State employees covered by Title 5 MRSA, § 7056-A may not:*

- *Use their official authority, influence or supervisory position for the purpose of interfering with or affecting the result of a partisan election or nomination for elective office;*
- *Use their official authority, influence or supervisory position for the purpose of attempting to intimidate, threaten, coerce, command or influence a person to give or withhold a political contribution or to engage or not to engage in any form of political activity addressed by Title 5 MRSA, § 7056-A;*
- *Give or offer to give a political contribution to an individual to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election;*
- *Solicit, accept or receive a political contribution to vote or refrain from voting or to vote for or against any candidate or measure in any partisan election;*
- *Knowingly give or hand over a political contribution to a superior;*
- *Knowingly solicit, accept or receive or be in any manner concerned with soliciting, accepting or receiving a political contribution from another employee or a member of another employee's immediate family who is a subordinate of the employee;*

- *Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who has or is seeking to obtain contractual or other business or financial relations with the agency in which the employee is employed;*
- *Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who conducts operations or activities that are regulated by the agency in which the employee is employed;*
- *Knowingly solicit, accept or receive a political contribution from or give a political contribution to any person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties;*
- *Engage in political activity when on duty;*
- *Engage in political activity in state-owned or leased work space occupied in the discharge of official duties or by using the facilities or services of the state;*
- *Engage in political activity when wearing a uniform or official insignia identifying the office or position of the employee or while using a vehicle owned or leased by the state or its agencies;*
- *Be a candidate for elective office in a partisan public election other than for a local office.*

*Note 1: By definition in Title 5 MRSA, § 7056-A, "use of official authority or influence" includes promising to confer or conferring a benefit such as compensation, a grant, contract, license or ruling; effecting or threatening to effect a reprisal, such as deprivation of compensation, a grant, contract, license or ruling; or taking, directing others to take, recommending, processing or approving any personnel action.*

*Note 2: By definition in Title 5 MRSA, § 7056-A, "political activity" means to advocate expressly for the election or defeat of any candidate for a federal office, a constitutional office or any candidate for partisan elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives or to solicit contributions reportable under Title 21-A MRSA, chapter 13.*

*Note 3: Employees of the executive branch who are allowed to solicit funds for political purposes by Title 5 MRSA, § 7056-A and who are covered by the federal law are prohibited by this federal law from soliciting funds for political purpose from any other state or local government employee who is covered by this same federal law.*

*Note 4: Title 5 MRSA, § 7506-A may not be construed to apply to actions taken by an employee to carry out the duties and responsibilities of the employee's position, including but not limited to advocacy on policy issues or legislation.*

## **ADDITIONAL POLITICAL ACTIVITIES PROHIBITED BY STATE LAW**

- *Under State Law, Title 21-A MRSA, § 32, a person commits a Class E crime if that person knowingly displays or distributes political advertisements in or on state-owned or state-leased property. This restriction to political activity does not pertain to acts on state highways or to displays on motor vehicles not owned by the state that are temporarily parked in parking areas on land maintained by the state, and it does not pertain to acts in or on a state-owned or state-leased building for a period beginning 48 hours before and ending 48 hours after that building is used by a political party to conduct a political activity within the building.*

*This does not prohibit informal, consensual discussions of political issues by state employees during their break or lunch time. Further, since Title 21-A MRSA, § 32 (1)(B) does not by its terms apply to speech, it would therefore not preclude the discussion of referenda and other ballot issues in union meetings that are permitted to take place on state property.*

- *Under State Law, Title 21-A MRSA, § 1063, the Secretary of State, the Treasurer of State, the Attorney General, the State Auditor, or any individual running for these offices, may not form a political action committee or be involved in the decision making for or solicit contributions to a political action committee.*
- *It is very important to emphasize that the prohibition against the use of state property or facilities for political purposes includes the use of the state's e-mail and telephone systems, either during or outside of regular work hours. Title 21-A MRSA, § 32, sub-§ 3 makes the misuse of a state government computer system for political purposes a Class C crime. With respect to political activity, a violation occurs if a person knowingly uses a state computer system: "A. To prepare materials with the intent to expressly advocate, to those eligible to vote, for the election or defeat of any candidate for a federal office, a constitutional office or elective municipal, county or state office, including leadership positions in the State Senate and the State House of Representatives; or B. With the intent to solicit contributions reportable under [Title 21-A,] chapter 13."*

*In addition to being a Class C crime, such misuse may subject a state employee to discipline up to and including dismissal.*

*The statutory prohibition against the use of the state's electronic communications systems for political purposes supersedes any agency policy that may allow limited or incidental use of these facilities for non-work related purposes.*

*NOTE 1: A "computer system" has the same meaning as that in Title 17-A MRSA, §431. That is, any combination of a computer or computers with the documentation, computer software or physical facilities supporting the computer.*

## **ACTIVITIES PROHIBITED BY FEDERAL LAW**

*Employees covered by United States Code, Title 5, Chapter 15 may not:*

- *Use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.*
- *Directly or indirectly coerce, attempt to coerce, command or advise any other state or local government employee who is covered by this same federal law to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.*
- *Be a candidate for elective office. This prohibition against candidacy does not apply to the Governor.*

## **EXAMPLES OF ACTIVITIES PERMITTED BY STATE AND FEDERAL LAW**

*A major change in 1997 permitted Executive Branch employees to solicit funds for a political purpose as long as the employee does not use the property or facilities of the state for that purpose or misuse his or her position of authority with the state, and as long as other stated conflicts of interest and acts of coercion are avoided.*

*In addition, as long as employees do not use the property or facilities of the state for these purposes, misuse his or her position of authority with the state, and only engage in these activities on their own personal time, all state employees:*

- *Retain the right to vote as they choose to vote and to express opinions on political subjects and candidates;*
- *May campaign for and hold an elective office in political clubs and organizations;*
- *May contribute money to political organizations or attend political fundraising functions;*
- *May donate personal time and service to a political cause;*
- *May solicit, accept and receive political contributions when the fund raising activities involved are not specifically prohibited by State or Federal Law (See limitations on soliciting funds listed in this Bulletin under the heading Activities Prohibited By State Law and the heading Activities Prohibited By Federal Law);*
- *May be a candidate for public office in a nonpartisan election or otherwise participate in the nonpartisan affairs of a municipality;*
- *May actively campaign for candidates in a partisan election or solicit votes in support of or opposition to candidates;*

- *May attend meetings or rallies, including committee meetings of political organizations, and serve on committees that organize or direct activities at a partisan campaign meeting or rally;*
- *May sign, originate, and circulate nominating petitions for candidates in a partisan election for public office;*
- *May transport voters to the polls as part of an effort of a candidate or political party to win a partisan election;*
- *May serve at the polls as an election official or clerk or as a checker, watcher, or challenger for a political party or a party candidate in a partisan election;*
- *May attend meetings, vote on candidates and issues, and take an active part in the management of a political club, organization, or party;*
- *May attend political party conventions and take part in the deliberations or proceedings of the convention or any of its committees; and*
- *May perform volunteer work for a partisan candidate, campaign committee, political party, or nominating convention of a political party.*

*NOTE: Neither state nor federal laws prohibit the wearing of campaign buttons or badges in the work place during normal working hours, but the employing agency may limit this activity. The employing agency may logically and reasonably differentiate between employees whose work requires frequent public contact and those who seldom meet the public in the performance of their duties.*

*S/ Joyce A. Oreskovich  
Joyce A. Oreskovich, Acting Director  
Bureau of Human Resources*

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<sup>1</sup>Any election in which candidates are nominated or elected as representing a political party whose candidates for presidential election received votes in the last preceding election at which presidential electors were selected, such as the Democrats or Republicans.

## DOMESTIC VIOLENCE AND THE WORKPLACE POLICY

### Purpose

The purpose of this policy is to raise awareness of and to provide guidance, education and resources to employees, supervisors and managers to address the occurrence of domestic violence and its effects in the work place.

### Definitions

- A. **Abuser:** An individual who engages in or commits domestic violence.
- B. **Domestic Violence:** A pattern of coercive behavior that is used by a person against family or household members to gain power and control over the other party in a relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, destruction of personal property and animal cruelty. Domestic violence occurs between people of all racial, economic, educational and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners and between other family and household members.
- C. **In The Work Place:** When an employee, whether the employee is the victim or the abuser, is in Efficiency Maine-owned or leased work space or is using the facilities, resources, or services of the Efficiency Maine, or is using a vehicle owned or leased by the Efficiency Maine, or is traveling on behalf of Efficiency Maine, the employee is considered “in the work place.”
- D. **Sexual assault:** An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure and voyeurism.
- E. **Stalking:** Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A. §210-A.
- F. **Work Place Safety Plan:** A strategy developed in consultation with a victim to implement work place safety options, including, but not limited to: setting up

procedures for alerting security or police; temporary relocation of the victim to a secure area; voluntary temporary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the work site; responding to telephone, fax, e-mail or mail harassment; and, keeping a photograph of the abuser or a copy of an existing court order in a confidential on-site location and providing copies to designated personnel.

- G. **Victim:** An individual subjected to domestic violence.

### **Statement of Confidentiality**

Efficiency Maine recognizes and respects an employee's need for autonomy and confidentiality. To the extent permitted by law and unless the substance of the employee's disclosure demands otherwise, the Efficiency Maine will maintain the confidentiality of an employee's disclosure. Disclosure should be addressed to any supervisor or appropriate human resources staff. If an employee's disclosure indicates that there exists reasonable cause to suspect abuse, neglect or exploitation of children or incapacitated or dependent adults reporting will be mandatory.<sup>1[1]</sup> Further disclosure may be necessary if the abuser presents a threat to the safety of any person in the work place. Whenever possible, the employee will be given notice of necessary disclosures.

### **Procedure – Increased Employee Awareness**

Efficiency Maine will increase employee awareness of domestic violence and inform employees of available community resources. The methods used may include, but are not limited to, the following:

- A. Posting information on the impact of domestic violence and available community resources at Efficiency Maine work sites. This information may include available sources of assistance such as availability of the state's Employee Assistance Program, domestic violence projects, sexual assault centers and human resources personnel who are trained and available to serve as confidential sources of information, support or referral.
- B. Including information on this policy and domestic violence awareness and services as part of the new employee orientation and in the new employee orientation packet.
- C. Conducting domestic violence awareness activities in staff meetings, programs such as "brown bag lunches" and health and wellness programs.

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<sup>1[1]</sup> Certain persons are "mandated reporters" of abuse or neglect of children, and abuse, neglect or exploitation of incapacitated or dependent adults. Mandated reporters include law enforcement officials. See 22 M.R.S.A. § 4011-A; 22 M.R.S.A. § 3477. In addition, any person may make an optional report if that person has reasonable cause to suspect that a child or incapacitated adult has been or is likely to be abused. Victims should be aware that situations involving suspected abuse, neglect or exploitation of children or incapacitated or dependent adults may be reported to outside agencies, as provided by law.

- D. Distributing to all current employees.

#### **Procedure – Employees Affected by Domestic Abuse**

- A. Efficiency Maine seeks to offer support and referrals for assistance to those employees who disclose concerns or request assistance.
- B. Each employee is encouraged to discuss any concerns about being safe at work with a supervisor, manager, or appropriate human resources personnel. An employee who experiences or witnesses violence or threats of immediate violence in the work place, regardless of whether the employee is a victim or not, should report the incident to a supervisor, manager, or appropriate human resources personnel immediately. In all circumstances, to ensure the safety and protection of all Efficiency Maine employees, any employee who has information that there is a threat of violence to any other person in the work place should, as soon as practicable, report the threat to a supervisor, manager, or appropriate human resources personnel.
- C. Efficiency Maine is committed to the effective enforcement of protection orders. In this regard, an employee is encouraged to provide a copy of a protection order issued pursuant to a petition filed by the employee to the employee's supervisor or manager, particularly when the work place is listed on the order so that every attempt can be made to take steps to enforce the order and protect that employee and others. The employee is encouraged to keep a current copy of protection order immediately available in the work place.

#### **Procedure – Response and Assistance to Victims of Domestic Violence**

- A. If an employee believes a co-worker is a victim of domestic violence, they are encouraged to contact a supervisor to discuss their concern and appropriate response. If a victim discloses domestic abuse to a co-worker, that co-worker should avoid victim blaming and send the following messages: you are not alone, you are not to blame, there is help available, and I am concerned about your safety. The co-worker may wish to refer the victim to:
  - 1. Available resources including the domestic violence and sexual assault agencies, and the Employee Assistance Program.
  - 2. Other individuals within the Efficiency Maine who may be able to provide assistance to the victim such as human resources personnel and the victim's supervisor..
  - 3. Sections of this policy that support safety planning and assistance to victims.

- B. Supervisors are responsible for communicating that domestic violence is behavior that will not be tolerated in the work place and that the Efficiency Maine will actively provide information and support to employees who are victims of such abuse.
- C. A supervisor or manager who becomes aware that an employee is a victim of domestic violence shall consult with appropriate human resources personnel to determine an appropriate response. Such response may include:
  - 1. Offering the victim information about appropriate organizations for support, which includes the domestic violence projects listed in Appendix A and that assistance is also available through the Employee Assistance Program.
  - 2. Offering use of earned leave or leave without pay for the purposes of accessing domestic violence services, counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking, in accordance with 26 M.R.S.A., §850, *Employment Leave for Victims of Violence*.
  - 3. Offering to assist the victim in developing a work place safety plan. If the victim and abuser are both employed by the Department, the work place safety plan should make arrangements to protect the victim from any threat posed by the abuser. The needs of the victim are of primary importance and isolating the abuser from the victim is preferred if relocation for safety purposes is an issue.
- D. Department employees with supervisory responsibilities and any other designated individuals who will respond to victim and abuser will receive training on domestic violence in the workplace.
- E. Performance Issues: This policy recognizes that victims of domestic violence may have performance problems such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor or manager that job performance issues are caused by domestic violence, referrals and assistance should be offered in accordance with this policy along with an opportunity to correct the performance issue. Nothing in this policy alters the authority of Efficiency Maine to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave or take other action as it deems appropriate.
- F. Where the other party in an incident of domestic violence or sexual assault involving an employee is an employee of a State agency, the human resources personnel will inform that agency, when there is reason to believe a workplace issue exists, to assure that appropriate responses to the situation are coordinated.

## **Procedure – Requirements of and Response to an Employee Who is an Abuser**

- A. If an employee is concerned that a co-worker is a perpetrator of domestic violence, sexual assault, or stalking, the employee should contact the appropriate human resources personnel. The employee should not approach the co-worker directly.
- B. An employee who is found using any Efficiency Maine resources such as work time, work place telephones, a firearm, facsimile machines, mail, electronic mail, an Efficiency Maine state vehicle, an Efficiency Maine credit card or other means to commit an act of domestic violence, sexual assault or stalking will be subject to disciplinary action, up to and including termination. Similarly, any employee who is arrested, convicted, or issued a court order as a result of domestic violence, sexual assault or stalking, when such action has a nexus/connection to their employment with Efficiency Maine, will be subject to disciplinary action, up to and including termination.
- C. Any employee of Efficiency Maine who is named as a defendant in a protection order must disclose to their supervisor or manager any temporary or permanent order for protection from abuse or harassment with conditions that include:
  - 1. Conditions prohibiting or limiting contact with other employees of the Department.
  - 2. Conditions that may interfere with the employee's ability to perform job duties such as a prohibition against carrying a firearm, or a no-contact order involving any person with whom the employee may come in contact while carrying out the duties of their employment
  - 3. Failure to disclose the above information may result in disciplinary action up to and including termination.
- D. A supervisor or manager who becomes aware of a protection order or other information regarding an employee who is an abuser shall keep that information confidential to the extent permitted by law and may only discuss the information with those persons who need to be informed.
- E. An employee who is an abuser is encouraged to voluntarily seek assistance from the Efficiency Maine's confidential Employee Assistance Program or from any of the certified batterer's intervention program.

## **Retaliation**

Any retaliatory action resulting from an employee making a complaint or observation of domestic violence, or otherwise asserting rights or responsibilities under this policy or relevant laws is a serious violation of this policy and will be subject to disciplinary action.

## **Documentation**

The Human Resources Office will develop necessary protocols related to maintaining records of domestic violence disclosures.

## **Procedure – Employees Affected by Sexual Abuse and/or Stalking**

Those employees who are victims of sexual assault or stalking should be referred to the appropriate sexual assault crisis and support center, which are listed in Appendix C.

## **Conclusion**

Efficiency Maine is committed to providing a supportive and caring work place environment free of domestic violence. Efficiency Maine will respond to and provide assistance to a victim. Victims will be treated with compassion and will not be judged.

## **OUTSIDE COMPLAINTS AGAINST EFFICIENCY MAINE TRUST EMPLOYEES**

Section 7036(28) of Title 5 provides that all state agencies “. . . establish a policy that makes certain that complaints made by the public against a state employee or group of state employees are addressed by that agency”. The following establishes a process to meet the requirements of this law.

### **PROCEDURE**

1. Members of the public with complaints against employees of Efficiency Maine Trust may report such complaints through the mail, email or by telephone.
2. Any employee, who receives a complaint from a member of the public against an employee, or group of state employees, must refer the complaint to the Administration Division head.-
3. Upon receipt of the complaint, the Administration Division head, after consultation with the Executive Director, shall determine what action should be taken. The employee shall be notified of the complaint. In the event of a conflict of interest or in other appropriate circumstances, the Executive Director may refer the matter to the Chairman of the Board of Trustees, or the assigned Assistant Attorney General or a designee.
4. Review of complaints will be completed within a reasonable time. If there needs to be an investigation of a bargaining unit employee as that term is defined in the relevant contract, the investigation shall comply with the provisions of applicable law, rule and collective bargaining agreement.
5. All reviews of complaints are to be conducted in a professional and confidential manner.
6. The Findings will be shared with the employee.

### **NOTIFICATION TO THE COMPLAINANT**

Upon final disposition, and if appropriate, the complainant shall be notified that the matter has been looked into and dealt with by the Office. If appropriate, the complainant will be notified of the outcome of any review, to the extent permitted by civil service rules, applicable law, contractual requirements or the personnel manual.

### **ADMINISTRATIVE RESPONSIBILITY**

The Administration Division head shall ensure that:

1. All citizen complaint records and subsequent review of said complaints remain confidential as required by statute.
2. Each complaint and any subsequent review are documented.
3. An annual summary report is prepared for the Executive Director that includes any information or data that will aid in identifying the need for training, supervision, or other actions that may be appropriate.

4. This policy is distributed to all employees of Efficiency Maine added to the *Efficiency Maine Trust Personnel Manual*, is posted on the Efficiency Maine website, and is otherwise made available to the public.

<sup>1</sup> Some complaints may contain facts that warrant referral to the Departmental Equal Employment Opportunity/Americans with Disabilities Act Coordinator or to another appropriate local, state or federal agency.

## STATE OF MAINE POLICY STATEMENT AGAINST HARASSMENT

### I. General Policy Statement

The State of Maine recognizes the dignity of the individual employee and the right of employees to work in an environment which is free of intimidation and harassment. Such intimidation or harassment based on race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status is a violation of State policy. Because such harassment seriously undermines the integrity of the work place and adversely affects employee morale, it is unacceptable and will not be tolerated. In addition, it is considered grounds for disciplinary action up to and including discharge. Harassment based on race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also constitute illegal employment discrimination.

Examples of harassment related to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act, include the following, which may be a series of incidents or a single occurrence:

- Unwelcome sexual advances, gestures, comments, or contact;
- Threats;
- Offensive jokes;
- Subjecting employees to ridicule, slurs, or derogatory actions;
- Basing employment decisions or practices on submission to such harassment;
- Refusal to cooperate with employees in performing work assignments;
- Inequitable disciplinary actions and work assignments.

Further examples of sexual harassment include: behavior that is verbal and sexual in nature – such as comments about a person's looks, personal inquiries, sexual jokes, use of derogatory sexual stereotypes, uttering sexually suggestive sounds, writing sexual notes, use of State computer equipment to send, receive and/or download material of a sexual nature; **non-verbal sexual behavior**- such as looking someone up and down, staring or leering at someone's body, deliberate blocking of a person's path, displaying sexual visuals, making sexual gestures; or **physical** – such as pinching, grabbing, sexual assault or any physical contact of a sexual nature.

**As a matter of State policy, any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual harassment. Similarly, any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with the department on the basis of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status is considered unprofessional regardless of whether it constitutes unlawful harassment. Such unprofessional conduct will not be tolerated in the**

**work place because it undermines morale, interferes with performance and demeans its victims. Each employee is personally responsible for compliance with this policy.**

**As part of their supervisory responsibilities, supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment.** If they become aware of any such conduct occurring, they must take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome.

The Department's EEO Coordinator may be consulted for advice and direction and **must** be contacted if a complaint is received, even if the complainant requests that no action be taken. Managers and supervisors who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including discharge.

## **II. Definitions**

"Sexual harassment" is defined as unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment.

"Quid pro quo" harassment occurs when submission or rejection of such conduct is used as the basis for employment decisions affecting an individual, *such as promotions in exchange for sexual favors, or an unfavorable change of duties in response to rejected sexual advances.*

"Hostile Work Environment." Unwelcome sexual conduct which unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment also constitutes illegal sexual harassment. Conduct which is not sexual in nature may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.

## **III. Applicability**

This policy applies to:

- Co-workers and supervisors
- Outside parties having dealings with the department (i.e., customers, vendors, contractors)
- Interactions between individuals of the same sex as well as of the opposite sex
- Interactions in the workplace during work hours as well as outside activities related to the workplace (i.e., parties, trips, conferences)

#### **IV. Complaint Process**

The State of Maine is committed to preventing harassment prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the harassment, a witness or otherwise becomes aware of harassment prohibited by this policy.

Internal complaints may be filed by contacting any of the following individuals:

- Immediate supervisor or any supervisor/manager in the chain of command
- Departmental Equal Employment Opportunity Coordinator
- Departmental Human Resource Manager
- State Equal Employment Opportunity Coordinator

Although every attempt will be made to resolve complaints at the lowest possible level, if an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are expected to cooperate in any departmental investigation of harassment.

In addition to initiating the internal complaint procedure, employees covered by collective bargaining agreements may file a grievance through the applicable grievance procedure. A discrimination complaint alleging harassment on the basis of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also be submitted to the Maine Human Rights Commission at any time within 180 days of the alleged discriminatory incident. It is not required that any of the above procedures be utilized first or in any sequence, nor is it required that any procedure be exhausted before the other is used. In those instances where the prior workers' compensation claim or right is made against the State of Maine, the complaint may be submitted to the Maine Workers' Compensation Board.

For more information, contact:

Maine Human Rights Commission... 624-6050 (TTY) 1-888-577-6690  
State EEO Coordinator.....287-4651 (TTY) 1-888-577-6690

#### **V. Retaliation**

Any form of retaliatory action or threat or suggestion of retaliation by either employees or supervisors against any person filing a complaint under this policy or assisting in an investigation is a violation of State policy. Any discriminatory action against any individual because the individual has opposed a practice that would be a violation of the Maine Human Rights Act, Title VII, the Americans with Disabilities Act, or the Age Discrimination in Employment Act or because the individual has made a charge, testified or assisted in any investigation, proceeding or hearing under the Maine Human Rights Act, Title VII, the Americans with Disabilities Act or the Age Discrimination in Employment Act is illegal. A complainant is protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same

manner as described above for complaints of harassment and will be promptly investigated. Such retaliatory conduct will be grounds for disciplinary action.

Each State agency has a designated EEO Officer who is responsible for handling complaints and providing technical assistance to staff regarding these issues.

Laurel Shippee, the state EEO Coordinator in the Bureau of Human Resources, is also available as a resource to any state employee or supervisor. She may be reached at (207) 287-4651 (TTY-1-888-577-6690).

December 2005

John E. Baldacci, Governor



**SIGNATURE PAGE FOR THE EFFICIENCY MAINE TRUST PERSONNEL MANUAL  
FOR STATE EMPLOYEES**

I certify that I have been provided a copy of and read the personnel manual and that if I have any questions regarding any contents listed I can ask my Supervisor.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Printed Name of Employee

\_\_\_\_\_  
Printed Name of Supervisor

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

# **EFFICIENCY MAINE TRUST**

## **Personnel Manual**

### **Non-State Employees**



**MAY 4, 2011**

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## **PERSONNEL MANUAL FOR NON-STATE EMPLOYEES**

### **OF EFFICIENCY MAINE TRUST**

#### **MANUAL PURPOSE**

This manual sets forth philosophies and practices of employment under which employees of Efficiency Maine Trust (hereinafter referred to as Efficiency Maine) are expected to give their best service. It clarifies the organization's employment policies so that each employee may be treated fairly and equitably. This manual applies to employees who are non state employees. Efficiency Maine employees who retained their status as state employees are covered under a separate manual as well as the State of Maine's Bureau of Human Resource publications and collective bargaining agreements, where applicable.

The effective operation of Efficiency Maine depends on the integrity and competency of its employees and board members and implementing the Triennial Plan adopted by the Board of Trustees. Overall policy is set by the Board of Trustees and administered by the Executive Director. Efficiency Maine reserves the rights to amend, alter, and make exceptions to these policies and procedures at any time. Statements or actions by any employee or agent of the organization that are contrary to these policies are not authorized and, to the maximum extent allowable by law, shall not be binding on the organization.

This document is distributed for informational purposes and does not constitute a contract between Efficiency Maine and its employees.

#### **RESPONSIBILITY FOR THIS POLICY**

The Efficiency Maine Executive Director is responsible for ensuring the efficient use of systems according to this policy. The interpretation of appropriate use and future revisions of this policy are the responsibility of the Executive Director.

#### **ADOPTION OF THIS POLICY**

On May 4, 2011 the Board of Trustees at a regular business meeting adopted this policy and authorized the Executive Director to implement the policy and to make technical and minor changes without seeking additional authorization of the Board. The policy will be reviewed by the Governance Committee at least once per fiscal year for non-minor changes and/or updates which will be referred to the Board for final action:

# WORKING AT EFFICIENCY MAINE TRUST

## EQUAL EMPLOYMENT OPPORTUNITY

Efficiency Maine affirms that all persons are entitled to equal employment opportunity, regardless of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act or marital status.

Specifically:

- Employment opportunities are and shall be open to all qualified applicants solely on the basis of their experience, aptitudes and abilities.
- Advancement is and shall be based entirely on the individual's achievement, performance, ability, attitude and potential for promotion.

This policy of non-discrimination applies throughout every aspect of the employment relationship, including recruitment, selection, placement, advancement, training, compensation, transfer, layoff, and termination.

## DEFINITIONS

1. **Exempt position** - An exempt position is a position paid on a salaried basis that is exempt from overtime compensation.
2. **Non-exempt position** - A non-exempt position is a position that is paid hourly, with overtime paid for time worked beyond **40 hours during the work** week.
3. **Full-time employees** - Full-time employees work at least 35 hours a week. Full-time employees are eligible to receive all benefits being provided to employees of Efficiency Maine consistent with the terms of those benefits.
4. **Part-time employees** - Part-time employees work fewer than 35 hours a week. Part-time employees are eligible to receive prorated benefits being provided to employees of Efficiency Maine consistent with the terms of those benefits. The proration will be on the basis of the assigned hours relative to a 40 hour work week.
5. **Temporary employees** - Temporary employees are hired to work fewer than 26 consecutive weeks; temporary employees may be exempt or non-exempt and full-time or part-time. Temporary employees are not hired subject to a contract between Efficiency Maine and the employee. Temporary employees are not eligible to receive benefits.
6. **Contract employees** - Contract employees are hired for a set period of time under the terms of a contract between Efficiency Maine and the employee. The terms of the contract may control the amount of pay and benefits paid and other conditions of employment. Contract employees are eligible to receive benefits depending upon their status as full- or part-time employees consistent with the terms of their contract.

7. **Limited period employees** – Limited period employees are hired for a set period of time longer than 26 consecutive weeks and are subject to other limitations on the term of the employment, such as the funding source or completion of a project. Limited period employees are not hired subject to a written employment contract. Limited period employees are eligible to receive benefits consistent with their status as full or part time employees.
8. **Conditions of employment** – Employees are considered employees-at-will unless there is a written contract in place.
9. **Compensatory time** – Compensatory time (comp time) is the grant of time-off with pay in lieu of overtime pay to compensate the employee for time worked in excess of 40 hours in a work week. Efficiency Maine does not provide comp time to employees in lieu of overtime pay nor to exempt employees who work in excess of 40 hours per week.
10. **Regular employment** – Regular employees are those whose employment is not subject to limitations on time or project completion. Regular employees may be exempt or non-exempt and full or part time. Due to limitations on their employment, temporary, contract and limited-period employees are not considered regular employees.
11. **Probationary period** –The probationary period is a six-month period beginning with the first day of work during which the employee’s performance is evaluated.
12. **Active employment** - Employment status is considered **active** when an employee is engaged in work activities and is receiving regular wages. Active status is retained through absence from work for up to 90 calendar days unless the employee absence is due to the terms of the Family Medical Leave Act (FMLA) or other statute which would establish other terms or standards.
13. **Inactive employment** - Any absence of 90 calendar days or more will result in **inactive** employment status during which paid-time off and holiday time benefits are neither paid nor earned unless the employee absence is due to the terms of the Family Medical Leave Act (FMLA) or other statute which would establish other terms or standards.
14. **Voluntary separation** – A voluntary separation occurs when an employee chooses to leave his or her position at Efficiency Maine.
15. **Involuntary separation** - An involuntary separation occurs when Efficiency Maine determines that it is in its interest to have the employee leave his or her position at Efficiency Maine.
16. **Layoff** – A layoff occurs when Efficiency Maine determines that it lacks the funding to maintain an employee’s position or that a particular project for which the employee was hired is completed.
17. **Notice of Employment** – A notice from Efficiency Maine to new employees that includes confirmation of the position, starting salary, effective date of employment, and any other matters agreed to in the employment negotiations. This notice is not a contract for employment.
18. **Personnel Directory Information** – Information about an employee that is available to the public, including but not limited to name, title, office telephone number, , fax number, business email address, and supervisor’s name.
19. **Personnel Confidential Information** – Information about an employee that is not available to the public generally includes but is not limited to home address, home

phone number, personal mobile number, salary, job performance review, personnel actions including disciplinary actions, termination notices. Should a legal determination be made that any or all of this information is public and not confidential, that determination will control Efficiency' Maine's response to any request for such information.

**20. Client or Customer Confidential Information** – Information about a client or customer that participated in an Efficiency Maine program is confidential unless release of that information is a disclosed condition of participation in the program or the client or customer has authorized release of the information. Confidential information includes but is not limited to home or business addresses, home or business phone numbers, personal or business mobile numbers, program or project in which the client or customer participated, source and amount of funding used for the benefit of the client or customer. Should a legal determination be made that any or all of this information is public and not confidential, that determination will control Efficiency' Maine's response to any request for such information.

**21.** For purposes of the **Family Medical Leave Act Policy**, the following definitions will apply:

- a. **“Spouse”** means a husband or wife as defined or recognized under Maine law.
- b. **“Domestic Partner”** means the partner of an employee who:
  - i. Is a mentally competent adult as is the employee;
  - ii. Has been legally domiciled with the employee for at least 12 months;
  - iii. Is not legally married to or legally separated from another individual;
  - iv. Is the sole partner of the employee and expects to remain so;
  - v. Is not a sibling of the employee; and
  - vi. Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.
- c. **“Sibling”** means a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.
- d. **“Serious Health Condition”** means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

## EMPLOYMENT

### Employment Status

Due to the requirements of Efficiency Maine's enabling legislation, those employees at the Maine Public Utilities Commission who accepted positions at Efficiency Maine Trust had the option of maintaining their state employee status or of leaving state employment. For employees who maintained their status as state employees, their payroll and benefits are governed by the State of Maine law, rule and applicable collective bargaining agreement. Such employees are also subject to state holidays and state shut down or furlough days, or actions which state employees are required to take.

The following apply to all employees unless otherwise agreed in writing. Employment is divided into two broad classifications based upon an employee's job description and responsibilities, which in turn determine the basis for compensation:

- An **exempt** position or
- A **non-exempt** position

Exempt employees are expected to work the amount of time required to do their job. Exempt employees are not eligible for the payment of overtime. Exempt employees who consistently work more than 40 hours per week may request an adjustment in their daily work schedule. An adjustment in daily work schedule is at the sole discretion of Efficiency Maine and the grant or denial of a request shall not constitute a precedent or labor practice for determining the outcome of future requests.

Compensatory time is neither offered nor permitted. Employees may not claim future paid time off for excess hours worked during a work week nor may they be granted the use of compensatory time or other non-worked and paid time due to the accumulation of time worked in excess of 40 hours in any work week.

Exempt and non-exempt positions may be full-time, part-time, temporary, contract or limited period employees as defined above. An employee's status as full time, part time, temporary, contract or limited period employees will determine that employee's access to Efficiency Maine's fringe benefit package. That access is further defined by the employee's status as an active or inactive employee. For employees who take leaves of absence, the continuation of benefits depends upon the type of leave taken and any controlling statutes.

Employment status is considered **active** when an employee is engaged in work activities and is receiving regular wages. Active status is retained through absence from work for up to 90 calendar days. Any absence of 90 calendar days or more will result in **inactive** employment status, during which paid-time off, and holiday time benefits are neither earned nor paid.

## **Conditions of Employment**

Employment at Efficiency Maine is at-will unless a written and authorized employment contract is in place. Continued employment is subject to the availability of funding and satisfactory work performance. All employees are expected to maintain a positive work environment free of harassment or hostility. Employees who create a hostile work environment, in violation of the State of Maine Policy Against Harassment, the Maine Human Rights Act, or applicable federal laws prohibiting discrimination and harassment, will be disciplined and may be separated from employment at Efficiency Maine.

It is Efficiency Maine's intent that supervisory staff will provide employees with notice of deficiencies and opportunity for improvement via a plan of correction developed by the supervisor with the employee. Immediate dismissal may occur when the employee's action or inaction seriously jeopardizes Efficiency Maine as an organization, other employees, or the public interest toward which our mission is directed.

## **Executive Director**

The Executive Director is employed by and accountable to the Efficiency Maine Trust Board of Trustees. The Executive Director has the authority to hire, assign, and terminate employees. The Executive Director also has the responsibility to assure that all Efficiency Maine employees are treated equitably and fairly and with respect and dignity consistent with these policies. The Executive Director has the authority to designate another staff member to act in his/her place for either unlimited or limited periods of time, and for all or select duties and responsibilities, especially when the Executive Director will be out of the office for an extended period of time, such as vacation, extended sick or disability time or other extended absences.

## **Notice of Employment**

Each new employee will receive a notice of employment from Efficiency Maine. The letter will include confirmation of the position title, starting salary, effective date of employment, and any other matters agreed to in the employment negotiations. This notice is not a contract for employment but is meant to assure that the new employee and Efficiency Maine have a shared understanding of the terms under which the employee has been hired. The employee will sign and return a copy of the notice which will become a part of the employee's personnel file.

## **Probationary Period**

Each employee will be hired for a probationary term of six months from the date of hire. The employee may be involuntarily separated from employment during the probationary period for failure to adequately perform. The employee will receive pay and benefits agreed upon at the beginning of employment. During and at the end of the probationary period there will be an evaluation of the job performance in conformance with the job description.

Regular status will begin upon successful completion of the probationary period. If the employee does not successfully complete the probationary period, the employee is subject to dismissal or the probationary period may be extended to allow the employee the opportunity to improve areas of deficiency. The Executive Director has the authority to extend the probationary period, if it is in the interest of Efficiency Maine to do so.

## **Managing Job Performance**

Efficiency Maine ties together a number of methods to help employees do their best work. The process starts at the time of hiring and continues throughout employment at Efficiency Maine.

- 1 Orientation:** There shall be an orientation upon starting work at Efficiency Maine. That orientation should include such things as job description, job training, work goals and priorities, and a general overview of Efficiency Maine policies.
- 2 Evaluation:** The Efficiency Maine evaluation process is a systematic approach to managing work performance to meet the employee's need to know what is expected and how well the employee is performing. It is a positive approach to achieving both productivity and job satisfaction. The evaluation may be a formal written evaluation or an informal written review. Each new employee will be provided a job evaluation before the end of the probationary period. After an employee has completed a satisfactory probationary period and achieves regular employment status, that employee will be provided a job performance at least annually on or about the employee's anniversary date.
- 3 Promotion:** The individual development and growth of each employee is encouraged. The employee is ultimately responsible for his or her own job proficiency and career development, and is encouraged to seek the advice of his or her supervisor regarding interests and qualifications or training for additional responsibilities.

## **Accepting Gifts**

It is against Efficiency Maine policy for an employee to accept gifts from any person or business that conducts business, or expects to conduct business, with Efficiency Maine Trust. Conduct of business in this provision means offering goods or services for pecuniary benefit, or applying for and receiving technical or financial assistance from Efficiency Maine, provided that such assistance that is available on a "first come first served" basis does not constitute conduct of business.

For the purpose of administrative guidance, gifts do not include advertising items of nominal value such as calendars, pens, or pencils. However, goods and services which involve a pecuniary benefit should be considered to be gifts. Further, receipt of gifts from family members or from individuals with whom the employee has a relationship that pre-dates employment at the Trust is allowed.

## **Code of Ethics and Conduct**

Employees of Efficiency Maine Trust will be guided by the standards of the Code of Ethics and Conduct adopted by Executive Order 10 FY88/89 dated April 1, 1989 and incorporated into the State Personnel Policy & Practices Manual at section 6.4 pending any action that Efficiency Maine Trust may take to draft and adopt its own code of ethics and conduct.

## **WORK ENVIRONMENT**

### **Hours of Work**

Efficiency Maine is open for business between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The standard work week for full-time employees is 40 hours.

It is expected that non-exempt staff will not be working before or after their regular work schedule unless the Executive Director, or the Executive Director's designee, has given advanced approval. Due to the nature of Efficiency Maine's work, it may be necessary at times for an employee to work overtime or to change scheduled hours. This means that the employee must occasionally be flexible in his or her work schedule. All schedules and compensation will be in compliance with federal and state laws.

Exempt employees are not eligible for the payment of overtime. Exempt employees who consistently work more than 40 hours per week may request an adjustment in their daily work schedule. An adjustment in daily work schedule is at the sole discretion of Efficiency Maine and the grant or denial of a request shall not constitute a precedent or labor practice for determining the outcome of future requests.

### **Work from Home**

Employees may work from home with approval of the supervisor. The decision of the supervisor to allow or disallow work from home is in the sole discretion of Efficiency Maine. Employees who work from home are responsible for assuring the protection of any confidential or personal information as well as the equipment assigned to them. Given the vulnerability of security on wireless networks, the exchange or transmission of confidential or otherwise protected information over an unsecured internet connection is prohibited unless all other means of communication have been exhausted and transmission of the information is extremely urgent. In general, transmission of sensitive information should be limited when using public wireless systems.

### **Inclement Weather**

The Efficiency Maine office will be closed when determined by the Executive Director or designee due to inclement weather. When an inclement weather closing is anticipated and working from home is practical, Efficiency Maine staff is expected to work from home.

### **Emergency Closings**

If the office is officially closed prior to or during the workday due to inclement weather or other emergency condition, the employee will be paid a full day's pay. If an employee is called in or needs to remain after a closing and is eligible for overtime pay, the employee will be paid at overtime rates for any approved hours worked after the organization has closed.

The decision to close the office will be made by the Executive Director or the Executive Director's designee. Employees will be notified of closings by a supervisor or a general email notification circulated to employees.

### **Attendance and Promptness**

The employee must advise their supervisor as soon as possible if the employee is going to be absent or more than one-half hour late. If an absence is due to illness that extends to more than 3 consecutive days the supervisor may request medical documentation from the employee's attending physician, as well as a medical authorization to return to work.

### **Work Attire**

Efficiency Maine's office is accessible to the public and employees also perform a number of duties and attend meetings outside of the office. Employees' attire and appearance should be appropriate for a given occasion. The standard for office attire is business casual. The following clothing items are not considered appropriate business casual attire: sweat clothes, workout attire, shorts, flip-flops, and ripped, torn or unclean clothing or other attire that projects a less than professional appearance.

### **Personal Calendars**

Each employee will have shared access to personal calendars maintained on Outlook. Employees are responsible for maintaining their personal calendars up-to-date, especially with planned time out of the office or work from home dates.

Each employee should plan ahead as much as possible and update their calendar when that employee will be out of the office for:

- work at home
- work at other locations when the employee will not be in the office, or
- time off , whether paid or unpaid

Employees should notify their supervisor and the Administrative Secretary when they are out ill. Employees should update their calendars and the Administrative Secretary will send a notification email to the staff concerning the absence only.

### **Safety and Health**

Efficiency Maine provides a safe and healthy work environment. Each employee has a responsibility to ensure that safety and health considerations are an integral part of all operations, thereby preventing injuries, health hazards, and property damage.

Despite these precautions, an employee may have an accident and be injured on the job. If this occurs, the employee should immediately notify his or her supervisor, regardless of the injury's

severity. Supervisors who are aware of an accident will take responsive action to assist the employee and decrease the likelihood of other similar or further injuries.

The supervisor who has received notice of an injured employee will immediately inform the CFO and/or the Administrative Secretary who will initiate necessary Workers' Compensation forms.

### **Prohibition of Discrimination and Harassment**

Discrimination against and/or harassment of employees on the basis of race, color, sex, age, national origin, religion, physical or mental disability, sexual orientation, whistleblower activity, or previous assertion of a claim under the Workers' Compensation Act is illegal. In addition, discrimination and/or harassment on the basis of creed, political affiliation, veterans' status, or marital status violates Efficiency Maine Policy. It is the policy of Efficiency Maine that unlawful or otherwise inappropriate harassment of or by employees and others have no place, and will not be tolerated, in the organization. All employees should be free to enjoy a working environment free from all forms of discrimination, including unlawful harassment based upon the protected class statuses listed in equal employment opportunity section of this handbook.

There are many forms of unlawful harassment. Sexual harassment means unwelcome sexual advances or propositions, requests for sexual favors, and similar verbal or physical conduct that is offensive to the individual, harms morale and/or interferes with the effectiveness of the organization. Unlawful or otherwise inappropriate harassment means unwelcome comments, jokes, acts, and other verbal or physical conduct related to race, color, sex, age, national origin, religion, physical or mental disability, sexual orientation, whistleblower activity, or assertion of a workers' compensation claim that is offensive to the individual, harms morale, and/or interferes with the effectiveness of the organization. Such conduct is prohibited whenever it directly or indirectly threatens an employee with termination or a change in the conditions of employment, is used as a basis for an employment decision, or has the purpose or effect of interfering with an employee's work performance or creating an intimidating and hostile or offensive working environment.

Each employee has the right and is urged to report unlawful or inappropriate harassment that takes place so that appropriate action may be taken. At an employee's request, and to the extent possible, complaints will be handled on a confidential basis. If an employee believes that he or she has experienced unlawful or inappropriate harassment, the employee should report the problem to his or her supervisor or to the Executive Director without fear of jeopardizing the employee's position. Any employee subject to unlawful or inappropriate harassment by his or her supervisor is not required to work through the supervisory chain, but should report such harassment, immediately, directly to the Executive Director.

Notice and training will be provided consistent with 26 MRSA section 807.

## **Smoking**

For the good health of all who work at or visit Efficiency Maine, smoking is prohibited at Efficiency Maine offices and property, and at its functions. Smoking is prohibited within an area of approximately 50 feet from any building entrance or window or as defined either by law or the owner of space leased by Efficiency Maine.

## **Firearms and Weapons**

The use, sale, distribution, possession or presence of firearms or weapons on the premises of Efficiency Maine is prohibited.

## **Drug-Free Workplace**

Alcohol may be consumed, when and where appropriate, in connection with social events on the premises of Efficiency Maine offices that are sanctioned by the Executive Director

The "Drug-Free Workplace Act of 1988" requires that grantees of federal agencies and most federal contractors certify that they will provide and maintain a drug-free workplace. Efficiency Maine maintains a strong commitment to provide a safe and healthy environment for its employees and the public they serve. Consistent with that commitment, Efficiency Maine will implement this policy for all employees to ensure a work environment free from the effects of drug abuse.

Efficiency Maine retains the right and responsibility to expect each employee to report for work and to perform his/her duties in a manner which does not jeopardize the health and safety of co-workers and the public. Work performance impaired by alcohol or drugs poses a threat to the well-being of employees and the public. Some of the drugs which are illegal under federal, state or local laws include marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current medical treatment by an accredited physician.

Employees may voluntarily seek assistance in dealing with drug or alcohol problems through the Employee Assistance Program (EAP). The EAP will provide consultation and referral to an appropriate treatment resource. Any employee may participate in the Employee Assistance Program without jeopardizing his/her employment status. However, voluntary participation in the Employee Assistance Program will not diminish appropriate disciplinary action for a violation of this or other policies.

Any employee who is under the influence of alcohol or illegal drugs on the job has the potential for disrupting his or her own, as well as co-workers', safe and efficient performance of duties. Employees under the influence of alcohol or illegal drugs on the job may be subject to disciplinary action up to and including termination of employment.

The illegal manufacture, distribution, dispensing, sale, use or possession of narcotics, drugs, or controlled substances is strictly prohibited on the job or in the workplace and shall constitute a

dischargeable offense. Any illegal substance found in the workplace will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

Any employee who is convicted of a criminal drug statute violation occurring on the job or in the workplace shall notify the Executive Director no later than five (5) days after such conviction.

When any convicted employee is paid from federal funds the organization shall notify its federal funding agency within ten (10) days after receiving such notification. Upon notification of a conviction it shall be the responsibility of the Executive Director to terminate the employee.

It shall be the responsibility of Efficiency Maine to:

- (a) advise and inform employees of the dangers of drug and alcohol use and abuse on the job or in the workplace; and
- (b) advise and inform employees of the Employee Assistance Program and rehabilitation services.

It shall be the responsibility of each employee to abide by the terms of this work rule.

### **Expectations of Behavior**

Employees of Efficiency Maine have frequent interaction with state government officials, federal government officials; federal, state and local elected representatives, business representatives, public interest groups, the media and the general public, and all employees are expected to conduct themselves in a professional and business-like manner. Employees are expected to avoid situations that may create a conflict of interest and are expected to act in such a way as to not compromise the organization's effectiveness.

### **Separation from Employment**

There are several ways employment with Efficiency Maine could be terminated: voluntary separation, involuntary separation, and layoff.

- 1. Voluntary separation** – A voluntary separation occurs when an employee chooses to leave their position at Efficiency Maine. Such a termination should be accompanied by a letter of resignation or retirement and include a minimum two-week notice. Employees may not work out their notice period using paid time off.
- 2. Involuntary separation** - An involuntary separation occurs when Efficiency Maine determines that it is in its interests to have the employee leave their position at Efficiency Maine. Such a termination is generally immediate in nature, although the Executive Director may determine that another date is appropriate. Separating employees will be paid their earned and available paid time off through their separation date

- 3. Layoff** – A layoff occurs when Efficiency Maine determines that it lacks the funding to maintain an employee’s position or that a particular project for which the employee was hired is completed. In the event regular positions must be cut due to lack of funding Efficiency Maine will provide incumbents with as much advanced notice as possible, given the circumstances. Efficiency Maine intends to provide minimum 30-days notice, but reserves the right to provide a shorter notice period if circumstances warrant. The layoff notice will provide the employee with information about any separation package, if such a package is available. It is the intention of Efficiency Maine to pay separating employees their earned and available paid time off through their separation date.

# **COMPENSATION AND BENEFITS**

## **PAY POLICY AND PRACTICES**

### **Policy**

It is the general policy of Efficiency Maine to pay wages that are competitive with what other organizations pay for comparable jobs and that are within Efficiency Maine's resources, in order to attract and retain excellent employees who perform well.

### **Payroll**

Employees will be paid bi-weekly by check or direct deposit based upon the employee's submitted and approved bi-weekly time sheet. The employee's timesheet will be submitted to the supervisor before the last day of the payroll period, which shall run from Saturday through Friday. The timesheet will detail the employee's time worked, paid time off and unpaid time off. The employee will allocate the paid hours to the program or programs where the employee is assigned and/or worked.

Detailed information about pay period earnings, year-to-date earnings and deductions from pay will be distributed with the bi-weekly payroll and is also available upon request. As required by law, federal and state income taxes and FICA (Social Security) tax must be withheld.

### **Overtime**

The federal Fair Labor Standards Act governs overtime pay, and non-exempt (hourly) employees are paid time-and-a-half for above 40 hours in a week. Efficiency Maine attempts to structure the work schedule so that overtime by hourly employees is not normally required. Due to the nature of the work of Efficiency Maine, overtime work may be necessary from time to time, especially to complete special projects.

For non-exempt employees, the Executive Director, or the Executive Director's designee, must approve in advance all hours in excess of 40 per week. Overtime over 40 hours a week or hours worked on a paid holiday will be compensated as a rate of 1-1/2 times the straight hourly rate. Overtime is paid only on total hours actually worked.

Exempt employees are expected to work the hours necessary to meet the responsibilities of their positions without compensation for overtime. It is recognized that this may include working evenings, weekends, and holidays.

## **EXPENSE REIMBURSEMENT**

Efficiency Maine's travel, mileage reimbursement and use of business credit card policies are fully stated in the Travel Policies. Those procedures and policies are controlling and employees are responsible for following and enforcing those policies.

## **TIME OFF**

### **Holidays**

Efficiency Maine observes twelve scheduled holidays for which the office is closed. A schedule of these holidays is published each December for the following calendar year. Provided that one is actively employed the day before and the day after the holiday, a full-time employee will be paid for these holidays. Part-time and temporary employees will be paid only if they are regularly scheduled to work that day.

New Year's Day	Martin Luther King, Jr. Day
President's Day	Patriot's Day
Memorial Day	Independence Day
Labor Day	Columbus Day
Veteran's Day	Thanksgiving Day
Thanksgiving Friday	Christmas Day

### **Paid Time Off**

In lieu of vacation, sick and personal time, employees will be granted paid time off (PTO). Paid time off should be coordinated with and approved by supervisors to assure that the work of Efficiency Maine will continue with minimal disruption. Employees who need to use unplanned PTO must contact the office as soon as possible and report their absence to their supervisor. Should an employee exhaust their available PTO the employee may request the use of unpaid time off, subject to approval of the Executive Director or designee.

PTO will be granted on a fiscal year basis to full time employees. PTO will be granted to part time employees on a prorated basis of their assigned hours relative to a 40 hour work week. The Notice of Employment will include the amount of PTO being granted to each employee.

All employees will accrue earned and available PTO on a pay period accrual basis, and will be able to use earned and available PTO. The use of PTO in excess of an employee's earned and available PTO may be approved on an individual basis and will be netted against future earned and available PTO. The approval of such paid time off is at the discretion of Efficiency Maine and should an employee leave employment either voluntarily or by termination, the employee will reimburse Efficiency Maine for the excess unearned time used. This provision may be waived by the Executive Director at his or her sole discretion.

Employees may carry over earned and available PTO at the end of the fiscal year for six months only. At the end of the six-month period any unused PTO from the prior fiscal year will expire and be deducted from the employee's available time. The use of PTO is on an earned time basis, meaning that the PTO used starts from the earliest earned time.

## **Leaves of Absence**

### Family Medical Leave and Military Family Leave Entitlements Policy

The contents of this policy are adopted from the State of Maine Family and Medical Leave Policy for Employees of Maine State Government. Efficiency Maine will use the State's policy as guidance in administering its own policy. Anyone contemplating the use of Family Medical Leave or Military Family Leave should discuss the issue and the policy with the Chief Financial Officer as soon as practical.

The purpose of this policy, and the State and Federal Laws on which this policy is based, is to balance the family and work needs of Efficiency Maine employees by providing eligible employees up to 12, and in some circumstances 26, weeks of unpaid leave per year for family and serious health matters, with the assurance that they will be restored to the position, status, benefits, and benefit levels that were in effect for them immediately prior to their leave.

Leave under this policy is computed on a calendar year basis beginning on January 1 of each year. The method for computing time for the purpose of caring for a covered servicemember is covered in the Military Caregiver Leave section of this policy.

The provisions and benefits of this policy are available to all Efficiency Maine employees who, at the time the leave begins or is scheduled to begin, have at least one year of employment (at any time and in any position, including temporary positions). This time does not need to be consecutive. An employee who is not eligible for FML at the beginning of his/her leave may begin FML once s/he becomes eligible.

1. For permanent and limited period positions (full-time and part-time), the one-year employment requirement must include all periods of authorized leave, paid or unpaid. **Note: the number of hours of work is not a consideration. A part-time employee who works for 12 months satisfies the same eligibility requirements as a full-time employee who works for 12 months.**
2. For seasonal positions (full-time and part-time), the one-year employment requirement will include only those months worked during the season. Time on authorized leaves during the season must be counted as time worked for this purpose. As example, a seasonal employee who works four months per season would be eligible at the start of the fourth season.
3. For acting and project appointments to full-time and part-time positions, the one-year requirement must include all employment time from the begin date to the end date.
4. For intermittent positions, the one-year eligibility requirement will be met upon the completion of 2080 hours in intermittent status.

5. If an employee requesting FML for the serious medical condition of a domestic partner has not previously submitted documentation of the domestic partnership for health insurance purposes, the Department may require the documentation for the purposes of determining eligibility for FML.
6. Once an employee is determined to be eligible for FML based on employment status, the medical certification process to determine whether s/he meets the necessary requirements for the type of leave being requested must be implemented.

### Leave Provided by the Policy

- A. This policy provides eligible Efficiency Maine employees up to 12 weeks of unpaid Family Medical Leave each calendar year:
  - a. For pregnancy or birth of a son or daughter or a domestic partner's son or daughter and to care for the newborn child;
  - b. For placement with the employee or the employee's domestic partner of a son or daughter for adoption or foster care;
  - c. To care for the employee's spouse, domestic partner, son, daughter, sibling, parent, or domestic partner's son or daughter with a serious health condition;
  - d. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job;
  - e. Because of any qualifying exigency arising out of the fact that the employee's spouse, domestic partner, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation;
  - f. Because of the donation of an organ by the employee for a human organ transplant.
- B. In addition to the above, eligible employees are entitled to up to 26 weeks of unpaid Military Family Leave Entitlements during a single 12-month period to care for a covered military servicemember with a serious injury or illness if the employee is the spouse, domestic partner, son, daughter, sibling, parent, or next-of-kin of the servicemember.
- C. Eligible employees are also entitled to 15 days unpaid leave if the employee is the spouse, domestic partner or parent of a servicemember who is deployed for military service for a period lasting longer than 180 days when the duty assignment is in a combat theater or in an area where armed conflict is taking place.

### Military Leave

Employer requirements and employee rights associated with leave for military service are found in the federal *Uniformed Services Employment and Reemployment Rights Act of 1994* (U.S. Code Title 38, Ch. 43), and various Maine statutes.

Employees must be granted military leave to enter military service or participate in training, whether voluntarily or involuntarily, in peacetime or in wartime. The type and duration of military duty will determine whether the employee remains in pay status.

**Military Leave with Pay:** Employees are allowed up to 17 work days in each calendar year without loss of pay or benefits when engaged in any form of military duty.

**Military Leave without Pay:** When military service exceeds the 17 work days authorized for military leave with pay, the employee must be placed on unpaid military leave. Employees may use, but are not required to use, accrued vacation, compensatory, or personal leave when entering unpaid military service. Provisions for the optional use of accrued vacation, compensatory, or personal leave also apply to employees who are called to active state duty by the Governor.

**Re-employment:** The guiding principle of the USERRA and Maine law is that an employee performing military service is not to suffer any detriment in employment and should be treated as if he or she had not left employment. Employees who enter military service retain reemployment rights under both the *Uniformed Services Employment and Reemployment Rights Act of 1994* and Maine law. Exceptions are narrowly restricted to persons who hold temporary, non-recurrent employment. Although certain criteria are required for an employee to exercise his or her reemployment rights, denial of reemployment to a returning service member should be considered an extraordinary situation. The Executive Director should be consulted if any adverse action is contemplated.

An employee who enters military service on a short-term basis would generally be returned to the position that he or she left. Employees who enter military service on a long-term basis would be returned to the position that he or she left or be returned to a position of like status and pay for which he or she is qualified. The Executive Director should be consulted if denial of reemployment for any reason is contemplated.

Upon the completion of service (less than 31 days, including weekend drills) employees are also entitled to reasonable time for return travel, and an eight-hour period of rest, before returning to work. The allotted time to apply for reemployment increases incrementally, depending upon the length of service.

### Bereavement Leave

The death of someone close is an extremely difficult time. Efficiency Maine recognizes that it is usually better for an employee to be with family and friends than trying to work when thoughts are elsewhere due to the death of someone close to the employee. Efficiency Maine provides up to five days off with pay in the event of the death of a partner or spouse, parent, or child; up to three days off with pay in the event of the death of a mother-in-law or father-in-law, brother or sister; and one day off with pay in the event of the death of any other relative.

### Jury Duty and Court Appearances

Leave for jury duty and court appearances shall be granted with pay with prior approval of the Executive Director, except for appearances in personal matters. Leave with pay shall not be granted in any personal action initiated by or against an employee that is not work related. The employee will be eligible for the net difference between their normal payroll for the day when jury duty or a court appearance is scheduled and the amount received by the employee from the

court or participants. The amount received will be reported to Efficiency Maine with a copy of the payment and the amount will be netted from the employee's next payroll.

### Unpaid Personal Leave of Absence

Leaves may be approved for education or special and non-recurring events which require an employee's full-time attention. The request for a leave is directed to the employee's supervisor, who will consider the employee's work record, performance and work conditions at the time of the request. In most cases, a leave will be without pay, and paid time off will not accrue. (See "Employment Status" for more details.) Unless there is written agreement otherwise, the job of an employee on Personal Leave of Absence is not guaranteed when the employee returns from the leave. If positions for which the employee is qualified are not available, employment will be terminated, and the employee will be placed on a waiting list and given preference when such a position becomes available.

## **FRINGE BENEFITS**

### **Retirement Plan**

Efficiency Maine will provide employees with access to a 401(k) retirement plan. Employees will be eligible to enroll and participate in the retirement plan (the “plan”) at the beginning of the next month following the completion of 30 calendar days of employment.

Efficiency Maine will match employee contribution up to a maximum of 5% of the employee’s earnings. Participation by the employee is voluntary and is restricted to the plan sponsored by Efficiency Maine. The match will only be made into the sponsored plan only, and employees who do not participate in the plan are not entitled to the forgone match through a cash payment, change in earnings or payment into another plan. Employees who participate in the plan but who do not contribute the full 5% match are not entitled to more than the match to their level of contribution through a cash payment, change in earnings or payment into another plan. Employees will be fully vested to receive the employer’s match on the first anniversary of their hire date.

Plan documents and a plan summary will be made available as required by law.

### **Section 125 Premium Only and Flexible Spending Plans**

Efficiency Maine will provide employees with access to a section 125 premium only plan and flexible spending accounts.

### **Health Insurance Coverage**

Efficiency Maine will provide health insurance coverage for its full time permanent employees. Health insurance coverage for part time employees will be subject to restrictions by Efficiency Maine’s health insurance provider. Efficiency Maine’s share of health insurance costs for part-time employees eligible for health insurance will be prorated based upon the employee’s assigned hours relative to a 40 hour work week. The premium in excess of Efficiency Maine’s share will be the employee’s responsibility. Efficiency Maine pays 90% of a single employee premium, and then 60% of the additional premium coverage for spouse, children and family plans. The amount of Efficiency Maine’s premium contribution is subject to change each anniversary date for the health insurance policy.

### **Health Insurance Deductible Cap**

For the initial health insurance coverage contract term Efficiency Maine is assisting employees by assuming responsibility for the a portion of the employee’s deductible. Efficiency Maine’s portion is the deductible amount above the employee’s share.

Employee only coverage	Maximum deductible \$3,500	Employee portion \$1,000
		Employer portion \$2,500

Employee and spouse	Maximum deductible \$7,000	Employee portion \$2,000 Employer portion \$5,000
Family	Maximum deductible \$7,000	Employee portion \$2,000 Employer portion \$5,000

The health plan deductible and Efficiency Maine’s participation is subject to change each anniversary date for the health insurance policy.

**Dental Insurance Coverage**

Efficiency Maine will provide dental insurance coverage for its full time permanent employees. Efficiency Maine will pay the full cost for the employee coverage only and 50% of the cost of additional coverage for spouse, child or family coverage. The employee will be responsible for the remaining portion of the insurance premium. Efficiency Maine’s participation is subject to change each anniversary date for the dental insurance policy.

**Life Insurance Coverage**

Efficiency Maine will provide each full time employee with life insurance equal to one-year’s salary at Efficiency Maine’s cost. Efficiency Maine’s participation in providing this coverage at its cost is subject to change each anniversary date for the life insurance policy.

**Short-Term Disability Insurance Coverage**

Efficiency Maine will provide each full time employee with short-term disability life insurance coverage at Efficiency Maine’s cost. Efficiency Maine’s participation in providing this coverage at its cost is subject to change each anniversary date for the short-term disability insurance policy.

**Long-Term Disability Insurance Coverage**

Efficiency Maine will provide each full time employee with long-term disability life insurance coverage at Efficiency Maine’s cost. Efficiency Maine’s participation in providing this coverage at its cost is subject to change each anniversary date for the long-term disability insurance policy.

## **PROFESSIONAL ADVANCEMENT AND IMPROVEMENT**

### **Employment Related Seminars and Training:**

Efficiency Maine supports employees' desire for continuing education when their attendance at seminars, and training sessions or courses can be expected to help in the performance of their jobs.

Considerations include:

- Maintaining an appropriate job certification
- Maintaining an appropriate professional certification
- Attaining an appropriate job certification
- Attaining an appropriate professional certification
- Learning about new programs or policies that affect either the job or Efficiency Maine
- Learning about job-related activities or requirements

An employee desiring to attend employment related seminars and/or workshops shall submit a request to the Executive Director via his or her supervisor. If approved, Efficiency Maine will pay in advance for the seminar/workshop. The employee is responsible for attending the event and must reimburse Efficiency Maine if he/she does not attend.

### **Employment Related Professional Associations:**

Employees may also submit a request for a job-related professional association membership. While it is the intention of Efficiency Maine to encourage membership and participation in professional associations and to pay the annual cost of a single professional membership, approval is at the sole discretion of Efficiency Maine.

Memberships in more than one professional association will be considered on an individual case basis. The requesting employee will need to make the case for why membership in more than one professional association is of value to the employee and to Efficiency Maine. Approval is at the sole discretion of Efficiency Maine.

## **OTHER POLICIES**

### **EQUIPMENT POLICIES**

#### **Use of Efficiency Maine branded or identified material, equipment and space**

Employees may use Efficiency Maine branded or identified material, equipment and office or other rented space for job activities only, except as noted below regarding mobile devices. The Efficiency Maine branding and its equipment and materials may not be used for political or personal purposes, or for commercial purposes that are not directly related to the work of Efficiency Maine.

Such branded materials included, but are not limited to:

- Efficiency Maine logo
- Efficiency Maine letterhead stationery
- Employee's title at Efficiency Maine on non-job related communication that could be construed as an endorsement
- Efficiency Maine's name, address, phone and fax numbers, email address
- Efficiency Maine website
- Efficiency Maine endorsement of any good, service, provider, political candidate or other non-job related endorsement
- Efficiency Maine branded advertising give-aways
- Equipment owned or leased by Efficiency Maine
- Space leased or owned by Efficiency Maine

Where there is a question, employees should seek direction from their supervisor or senior management before taking action. All such decisions should err on the side of caution. Any inadvertent misuse of the Efficiency Maine brand should be immediately reported to the Executive Director or designee.

#### **Efficiency Maine Supplied Equipment**

Efficiency Maine will provide employees with the equipment necessary to accomplish the job for which the employee was hired including laptops or personal computers. Employees are expected to use the equipment as intended and to treat it in a manner which will assure its longevity and continued use. Intentional misuse or abuse of equipment will cause the employee to surrender the equipment upon request. All equipment assigned to an employee will be returned in good order, except for normal wear and tear, upon termination or request.

Employees will be provided Internet access for job-related use. Intentional misuse or abuse of Internet access will lead to the termination of access. Efficiency Maine reserves the right to periodically audit the contents of the laptops and personal computers and personal drives to be assured that no unlawful content has been stored on the employee's computer or the server, no matter how the content was delivered. Any unlawful content found will require the immediate surrender of the computer and referral to law enforcement authorities.

Equipment provided and individually assigned may include some or all of the following items:

- Desk or work surface and chair
- Cabinet(s)
- Storage shelves or units
- Desk telephone
- Desk top calculator
- Laptop computer, docking station and monitor with internet access
- Mobile devices (Blackberry, Smart Phones or similar devices) with telephone, internet and email access
- Cell phone
- Virtual Private Network (VPN) access to supplied laptop, only

Employees may not provide or utilize their own equipment to conduct the business of Efficiency Maine except in the case of Blackberry or similar devices or cell phones, with permission of the Executive Director or designee. In the case of approved use of personal mobile devices or cell phones Efficiency Maine will provide at its cost a service plan the same as or similar to the plan being provided for Efficiency Maine provided equipment.

### **Mobile Devices**

Mobile devices may be issued when it is more cost effective and efficient than landlines/desk phones, or pagers or where the employee's ability to communicate remotely from the office is integral to their ability to perform their job. The term mobile device includes mobile phones, cell phones, Blackberry devices, smart phones, and other Personal Data Assistant (PDA) devices, with cellular communications capability. Mobile devices assigned to an employee will be returned in good order, except for normal wear and tear upon termination or request.

Eligibility: Mobile devices shall be issued based on one or more of the following job requirements:

- Employee's job requires field work where landline phones are inaccessible or inefficient
- Employee's job requires immediate or on-call availability
- Employee's job requires travel and availability via cellular device

Efficiency Maine devices are issued to an individual for their job functions and remain the property of Efficiency Maine. The downloading of applications is limited to job-related applications only, and any applications or contents downloaded or stored on the device is the property of Efficiency Maine.

Job-related applications must be approved by a supervisor before the application and any subscription costs are incurred and become the responsibility of Efficiency Maine. If an employee downloads an application that is not job-related and that has a cost either for the download or an ongoing subscription cost, the employee will discontinue the service and will reimburse Efficiency Maine for all costs incurred by the application. Any application, whether or not it is job-related and/or authorized by Efficiency Maine that contains offensive or unlawful material will be removed immediately by the employee without waiting for direction.

Efficiency Maine reserves the right to periodically audit the contents of the device to be assured that no unlawful content has been stored on the device, no matter how the content was delivered to the device. Any unlawful content found will require the immediate surrender of the device and referral to law enforcement authorities.

## **PERSONAL PHONE CALLS**

While Efficiency Maine recognizes the need for personal phone calls, these calls should be kept to a minimum frequency and time length during normal work hours. Under no circumstances is the toll-free number to be used for incoming personal calls. Excessive personal telephone use during normal work hours interferes with work flow.

Employees who are issued a mobile device with a calling plan of unlimited minutes may make personal calls during non-work hours but may not use the device for any political purposes.

## **USE OF CONTACT AND CONFIDENTIAL INFORMATION**

Efficiency Maine staff has a responsibility for protecting confidential information. Such information includes certain personnel, and client or customer information. Confidential client or customer information includes acknowledgement of participation in a program unless release of that information is a disclosed condition of participation in the program or the client or customer has authorized release of the information in a press release, marketing material or other communication.

Prior authorization by the Executive Director, Program Director, Communications Director or Chief Financial Officer, or their designee, is required for all list serve use including email lists and lists of names and addresses.

Employees are not to use Efficiency Maine list serves for non-job related activities, nor are such lists to be sold or conveyed to anyone outside of Efficiency Maine unless the third party is a contractor or consultant with a valid need for access to that list. Approval for access is through the Program Director. In the case of mailing lists that have names and addresses of persons, especially those who have received services through Efficiency Maine, confidentiality and personal privacy are of utmost concern.

Where there is a question, employees should seek direction from their supervisor or senior management before taking action. All such decisions should err of the side of caution. Any inadvertent misuse of the Efficiency Maine list serve should be immediately reported to the Executive Director or designee.

## **INTERNET, ELECTRONIC MAIL AND VOICE MAIL POLICY**

Electronic Mail (email) and voice mail are corporate assets and critical components of communication systems. The email and voice mail systems are provided by the company for employees to facilitate the performance of company work and their contents are the property of Efficiency Maine. Efficiency Maine management reserves the right to retrieve the contents for any reason, including but not limited to finding lost messages, to comply with investigations of wrongful acts, or to recover from system failure.

Personal use of email or voice mail by employees is allowable, but should not interfere with or conflict with business use. Employees should exercise good judgment regarding the reasonableness of personal use. Any personal use must be of an incidental nature and not interfere with business activities. Personal use must not involve solicitation, must not be associated with any outside business activity or personal gain, must not be libelous or defamatory, must not violate the Efficiency Maine's Policy on Employee Harassment, must not potentially embarrass Efficiency Maine, its Trustees, Executive Director, stakeholders, grantor agencies or its employees or be used for any unlawful purpose. Copyright restrictions and regulations shall be observed. The information communicated over agency e-mail systems is subject to the same laws, regulations, policies, and other requirements as information communicated in other written forms and formats and is not to be utilized for political purposes.

### **E-mail Use Privacy and Access**

E-mail messages are not personal and private. Managers, supervisors, and technical staff may access an employee's e-mail for reasonable business purposes, including but not limited to:

- for a legitimate business purpose (e.g., the need to access information when an employee is absent);
- to diagnose and resolve technical problems involving system hardware, software, or communications;
- to comply with legitimate requests filed under the Freedom of Access Act or Freedom of Information laws: and/or
- to investigate possible misuse of e-mail when a reasonable suspicion of abuse exists or in conjunction with an approved investigation.

Additional provisions regarding email include:

- An employee, with the exceptions noted above, is prohibited from accessing another user's e-mail without his or her permission.
- *All e-mail messages including personal communications* may be subject to discovery proceedings in legal actions.
- *All e-mail messages sent or received by Efficiency Maine Trust staff and which are not otherwise protected by law, are public documents and may be released to the public under the Freedom of Access Law.*

## **E-mail Security**

E-mail security is a joint responsibility of technical staff and e-mail users. Users must take all reasonable precautions, including safeguarding and changing passwords, to prevent the use of their e-mail account by unauthorized individuals.

## **E-mail Communications Management and Retention**

### Applicable to all e-mail messages and attachments

Since e-mail is a communications system, messages should not be retained for extended periods of time.

Users should:

- remove or archive all e-mail communications in a timely fashion, and,
- delete records of transitory or little value that are not normally retained in record keeping systems as evidence of an agency's activity.

### Applicable to records communicated via e-mail

E-mail created in the normal course of official business and retained as evidence of official policies, actions, decisions or transactions are records and are subject to the records management requirements documented by the Maine State Archives. (A copy of the Maine State Archives' *State of Maine E-Mail and Voice Mail Retention Guide 2008* is available in the office and should be reviewed by employees). Records communicated using e-mail need to be identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements.

Examples of messages sent by e-mail that typically are records include:

- policies and directives
- correspondence or memoranda related to official business
- work schedules and assignments
- agendas and minutes of meetings
- drafts of documents that are circulated for comment or approval
- any document that initiates, authorizes, or completes a business transaction
- final reports or recommendations Some examples of messages that *typically do not constitute records* are:
  - personal messages and announcements
  - copies or extracts of documents distributed for convenience or reference
  - phone message notes

## **Roles and Responsibilities**

- Executive management will ensure that the policy is implemented by staff
- The Administration Division will develop and/or publicize record keeping practices in their area of responsibility including the routing, formatting, and filing of records communicated via e-mail. They will train staff in appropriate use, including appropriate personal use of e-mail that does not result in performance issues, and be responsible for ensuring the security of physical devices and passwords.

- The Administration Division is responsible for e-mail security, backup, and disaster recovery.
- Users are responsible for adherence to this policy.

### **Proper Usage**

Including but not limited to the following, all e-mail users will:

- understand that personal use must be of an incidental nature only
- comply with agency and unit policies, procedures, and standards
- protect confidentiality
- be aware that sending e-mail of a political nature (supporting candidates, soliciting contributions, etc.) is against the law and subject to criminal penalties (5 U.S.C. §1501 et seq., and 5 M.R.S.A. §7056-A 5 M.R.S.A §1976)
- immediately delete any chain letters received through the e-mail system
- protect passwords
- respond to e-mail in a timely fashion
- not in any way use e-mail access or transmit prohibited content of a sexual nature
- delete any messages that may contain offensive material and report to management
- remove personal messages, transient records, and reference copies in a timely manner
- not use e-mail for outside business activity or personal gain
- observe all copyright restrictions and regulations
- not use e-mail for any unlawful or illegal purpose
- not use e-mail to promote discrimination on the basis of race, religion, national origin, disability, sexual orientation, age, marital status, gender, or political affiliation
- not create e-mails that may be defamatory or libelous
- consider organizational access and retention requirements before sending, filing, or destroying e-mail messages
- be courteous and follow accepted standards of etiquette
- not use the e-mail system to solicit for causes unrelated to agency business
- not knowingly send or receive e-mails that contain a virus

### **Violations of this policy**

Any violation of this policy could result in disciplinary action up to and including termination.

Use of email and voice mail is limited to employees and authorized vendors, temporaries, or contractors. Employees and authorized users are responsible to maintain the security of their accounts and their passwords.

Efficient use of the email and voice mail systems suggests that messages should be concise and directed to individuals with an interest or need to know.

Misuse of email and/or voice mail can result in disciplinary action up to and including termination. More specifically:

- Transmitting offensive material over any company communication system which violates our harassment policy or creates an intimidating or hostile work environment is prohibited;
- Use of company communications systems to set up personal businesses or send chain letters is prohibited;
- Company confidential messages are to be distributed to Efficiency Maine personnel only Except for authorized contractors such as attorneys representing Efficiency Maine or lawful requests;
- Forwarding confidential message to locations outside is prohibited;
- Accessing copyrighted information in a way that violates the copyright is prohibited;
- Breaking into the system or unauthorized use of a password or mailbox is prohibited;
- Broadcasting unsolicited personal views on social, political, religious or other non-business related matters is prohibited;
- Solicitation to buy or sell goods or services is prohibited.

**As a reminder: Employees should never presume that their email or voice mail messages are personal and private.**

## **SOCIAL MEDIA POLICY**

### **Statement of Policy**

Efficiency Maine may use social media technologies to enhance communication, collaboration, and information exchange with citizens under the following guidelines and procedures.

### **Purpose**

The purpose of this policy is to define the use of social media by Efficiency Maine employees while contributing to or overseeing agency social media sites or providing comments or updates to the agency's social media identities.

In addition to this policy, social media content must be in compliance with all Efficiency Maine policies. This includes policies on harassment and discrimination, confidentiality, ethics, and workplace violence, along with any applicable codes of conduct.

### **Guidelines and Procedures**

The Communications Director will oversee all social media requests and interactions. Employees shall consult with the Communications Director prior to engaging in social media to ensure that participation and representation on social media sites is sanctioned. Legal counsel should be sought, when appropriate, prior to the agency engaging in social media.

### **Social Media Use**

**Required Work-Related Use:** This includes use of social media that is sanctioned as part of an employee's job function (e.g., when an employee, as part of their job responsibilities, tweets on behalf of Efficiency Maine on the Efficiency Maine's Twitter account). When this type of use is authorized the employee must ensure that:

- Any social media sites used by Efficiency Maine to provide information must be established in the name of Efficiency Maine.
- Any information posted is authorized by the Communications Director.
- Only authorized employees post information on Efficiency Maine sites.
- Information posted is in compliance with Efficiency Maine's Terms of Comment.
- Personal opinions are not to be posted on Efficiency Maine websites.
- The purpose for using the social media site is defined and understood by any authorized poster.
- Any authorized poster will monitor the social media site to ensure compliance with this policy and all other applicable Efficiency Maine policies.
- Any authorized poster and the Communications Director will remove any scandalous, libelous, defamatory, pornographic, etc. material that is posted.
- A process will be instituted to save and retain all postings, outgoing and incoming, as all posted material is a public record.

Personal use at work:

- This includes personal use of social media while at work by an employee (e.g. logging onto Facebook and providing personal updates to a Facebook page or Twitter account during work hours using their own or their Efficiency Maine's information technology resources, when such activity is outside of the employee's official job function).
- Any such use shall be consistent with the Policy Concerning the Use of State-Owned Information and Technology (I.T.) and Related Communications Equipment and Resources and any additional use policies adopted by Efficiency Maine.
- Excessive personal use of social media during work hours is prohibited.
- Personal use outside of work: This includes use of social media by an employee in his or her personal capacity outside of work.
- Employees are prohibited from posting official Efficiency Maine information on his or her personal media site.
- Employees' personal use should not be attributable to Efficiency Maine or employees' job function at Efficiency Maine.
- Efficiency Maine's harassment and discrimination policies, confidentiality policies, ethics rules, code of conduct, and workplace violence policies are applicable to all social media usage.

Agencies linking from an Efficiency Maine web page to a non-Efficiency Maine social media site or landing page must indicate to users that the site is not an official Efficiency Maine site and that a third party's website policies apply.

Social media participants must abide by laws governing copyright and fair use of copyrighted material owned by others. Entire articles or publications should not be reprinted without first receiving written permission from the publication's author/owner. Never quote more than a short excerpt of someone else's work and, if possible, provide a link to the original. When referencing a law, regulation, policy, or other website, if possible, provide a link or the citation.

Social media sites that contain communications sent to or received by Efficiency Maine are public records subject to State Records Retention law. These retention requirements apply regardless of the form of the record (digital text, photos, audio, or video, for example). See the record management section of the Secretary of State's website for full details: <http://www.maine.gov/sos/arc/records/state/index.html>. Efficiency Maine must ensure that it retains a copy of the social media content in accordance with the State's records retention requirements. Efficiency Maine must review the social media service provider's terms of service for its records retention practices. While social media providers may save content for some period of time, they generally will not save it indefinitely. To the extent that the social media providers' policies are inconsistent with Maine's records retentions requirements, Efficiency Maine must retain its own copies of social media posts.

The Communications Director is to be aware that a social media provider may incorporate advertisements into its site. State procurement and ethics laws prohibit employees or agencies from endorsing products or vendors and these standards will be observed by Efficiency Maine. Efficiency Maine must limit its association with advertising by (1) amending the Terms of

Service of the social media provider if possible; (2) using, whenever possible, non-branded landing pages within the social media website or (3) not joining the social media site.

### **Applicability**

- This policy applies to social media activities at Efficiency Maine. As the technology evolves, this policy may be amended to ensure consistency in the use of technologies by state employees. As Efficiency Maine makes the decision to participate in social media activities, it is responsible for the information contained in the following documents, and the effective incorporation of this information into updated policy and procedures. All federal and state statutes and policies apply including:
- *Section 508 of the Rehabilitation Act of 1973*
- *Accessibility Policy on Effective Electronic Communications*
- *Information Technology Security Policy (PDF), Web Accessibility Policy for the State of Maine*
- *Policy on Access to Data and Information on State Owned Computer Devices*
- *Policy Concerning the Use of State-Owned Information and Technology I.T.) and Related Communications Equipment and Resources*
- *Maine State Archive - Record Retention Schedules*
- *Maine's Freedom of Access Act*

### **Responsibility**

The Communications Director will:

- authorize specific employees to post, update and monitor Efficiency Maine's social media identity or page,
- create a Terms of Comment which will describe how Efficiency Maine intends to manage user contributions to Efficiency Maine's social media site (such as a wiki or a blog). The Terms of Comment shall also describe the review process prior to posting comments and the selection criteria for comment posting (e.g. on-topic, non-duplicative, not obscene or offensive etc.). Comments shall be monitored by authorized Efficiency Maine staff. The Terms of Comment must be provided to each employee authorized by the Communications Director to post information on behalf of Efficiency Maine,
- clearly indicate to employees and public users when social media used by Efficiency Maine is hosted by a third party that has its own privacy policy and terms of service, and
- Advise employees using social media sites that social media providers used by Efficiency Maine may collect personal information through use of the social media site; that this personal information will be disseminated online via the social media site; and that its

dissemination will not be subject to the restrictions described in State of Maine technology policies.

## Definitions

- **Landing page** - A landing page is the page website visitors arrive at after clicking on a link on another website. It could be a home page, or any other page in a site.
- **Social Media Identity** – A social media identity is a user identity or account that has been registered on a third party social media site.
- **Social Media or Networking** – The terms social media and social networking are used interchangeably. Social media is a set of technologies and channels targeted at forming and enabling a potentially massive community of participants to productively collaborate. Social media includes: blogs, wikis, micro-blogging sites, such as Twitter™; social networking sites, such as Facebook™ and LinkedIn™; video sharing sites, such as YouTube™; and bookmarking sites such as Del.icio.us™.
- **Social Media Sites** – Social media sites refer to websites that facilitate user participation, networking and collaboration through the submission of user generated content.
- **Social Media Supervisor** - The Communications Director will function as the Social Media Supervisor. The Social Media Supervisor is an individual within Efficiency Maine who oversees all Efficiency Maine social media sites and ensures compliance with this and all other applicable Efficiency Maine policies. This individual is responsible for authorizing employees to post on Efficiency Maine sites and for the content of such postings.

## POLITICAL ACTIVITY – HATCH ACT

### General Policy

Efficiency Maine is an independent, state agency that receives federal funding. As such it and its employees, whose positions are federally funded, are subject to the federal Hatch Act. Covered employees may not:

- be candidates for public offices in a partisan election
- use official authority or influence to interfere with or affect the results of an election or nomination; or
- directly or indirectly coerce, attempt to coerce, commend, or advise a state or local employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes.

An election is a partisan election if any candidate is to be nominated or elected as representing a political party, for example, the Democratic or Republican party.

Except as prescribed by law, no Efficiency Maine funds or employee time, supplies, or services are to be used for the purpose of aiding any candidate for any elected office whether partisan or non-partisan. If this should occur it may be grounds for disciplinary action which could lead to termination.

### The U.S. Office of Special Counsel

The U.S. Office of Special Counsel is responsible for enforcing the Hatch Act. The U.S. Office of Special Counsel (OSC) is authorized by law to provide Hatch Act advisory opinions. Employees and members of the public are encouraged to write to OSC with specific questions that address permitted and prohibited activities under the Hatch Act. Should there be a question or concern raised about compliance with the Act, the Executive Director may submit a request for an advisory opinion directly to the Office of the Special Counsel, or to the State of Maine Attorney General's Office.

The information below is taken from the U.S. Office of Special Counsel and is provided for guidance.

A. The Hatch Act restricts the political activity of individuals principally employed by state, county or municipal executive agencies who work in connection with programs financed in whole or in part by federal loans or grants. An officer or employee of a state or local agency is covered by the Hatch Act, if he or she has duties in connection with an activity financed in whole or in part by federal funds. These state and local employees:

- **may** be candidates for public office in nonpartisan elections, i.e., an election where no candidates are running with party affiliation.

*EXAMPLE: An employee may run for the school board in Washington D.C., as long as the school board elections in Washington D.C. remain nonpartisan.*

- **may** hold elective office in political parties, clubs and organizations.  
*EXAMPLE: An employee may serve as the vice president of the local Democratic or Republican party.*
- **may** be appointed to fill a vacancy for an elective office.  
*EXAMPLE: An employee may be appointed to finish the unexpired term of an elected officeholder. The employee may not run for reelection if the election is partisan.*
- **may** actively campaign for candidates for public office in partisan and nonpartisan elections.  
*EXAMPLE: An employee may campaign for candidates by making speeches, writing letters, working at the polls on election day and organizing political rallies and meetings.*
- **may** contribute money to political organizations.  
*EXAMPLE: An employee may make a monetary contribution to any candidate, political party, club or organization.*
- **may** attend and give a speech at a political fundraiser, rally or meeting.  
*EXAMPLE: An employee may attend and give a speech or keynote address at a political fundraiser.*

B. There continue to be important restrictions on employees' political activity. State and local employees:

- **may** not be candidates for public office in partisan elections.  
*EXAMPLE: An employee may not run for office in an election where any of the candidates are running as representatives of a political party, e.g., the Democratic or Republican Party.*
- **may** not use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.  
*EXAMPLE: A supervisor should not ask a subordinate employee to volunteer for a political party.*
- **may** not directly or indirectly coerce contributions from other state or local employees.  
*EXAMPLE: A supervisor should not advise employees that they may purchase tickets to a fundraising event.*
- **may** not orchestrate a "write-in" candidacy during a partisan election.  
*EXAMPLE: An employee may not solicit voters to write his name on the ballot on election day.*

### **State and Local Employees who are not covered by the Hatch Act**

Individuals who have no duties in connection with federally funded activities and individuals employed by publicly financed educational or research institutions, including state university systems and local public school systems are not covered by the Hatch Act.

**CAUTION:** An employee's conduct is also subject to the laws of the state and regulations of the employing agency. State or local laws do not affect the prohibitions of the Hatch Act.

## DOMESTIC VIOLENCE AND THE WORKPLACE POLICY

### Purpose

The purpose of this policy is to raise awareness of and to provide guidance, education and resources to employees, supervisors and managers to address the occurrence of domestic violence and its effects in the work place.

### Definitions

- A. **Abuser:** An individual who engages in or commits domestic violence.
- B. **Domestic Violence:** A pattern of coercive behavior that is used by a person against family or household members to gain power and control over the other party in a relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, destruction of personal property and animal cruelty. Domestic violence occurs between people of all racial, economic, educational and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners and between other family and household members.
- C. **In The Work Place:** When an employee, whether the employee is the victim or the abuser, is in Efficiency Maine-owned or leased work space or is using the facilities, resources, or services of Efficiency Maine, or is using a vehicle owned or leased by Efficiency Maine, or is traveling on behalf of Efficiency Maine, the employee is considered “in the work place.”
- D. **Sexual assault:** An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure and voyeurism.
- E. **Stalking:** Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A. §210-A.
- F. **Work Place Safety Plan:** A strategy developed in consultation with a victim to implement work place safety options, including, but not limited to: setting up procedures for alerting security or police; temporary relocation of the victim to a

secure area; voluntary temporary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the work site; responding to telephone, fax, e-mail or mail harassment; and, keeping a photograph of the abuser or a copy of an existing court order in a confidential on-site location and providing copies to designated personnel.

- G. **Victim:** An individual subjected to domestic violence.

### **Statement of Confidentiality**

Efficiency Maine recognizes and respects an employee's need for autonomy and confidentiality. To the extent permitted by law and unless the substance of the employee's disclosure demands otherwise, Efficiency Maine will maintain the confidentiality of an employee's disclosure. Disclosure should be addressed to any supervisor or appropriate human resources staff. If an employee's disclosure indicates that there exists reasonable cause to suspect abuse, neglect or exploitation of children or incapacitated or dependent adults, reporting will be mandatory.<sup>1</sup> Further disclosure may be necessary if the abuser presents a threat to the safety of any person in the work place. Whenever possible, the employee will be given notice of necessary disclosures.

### **Procedure – Increased Employee Awareness**

Efficiency Maine will increase employee awareness of domestic violence and inform employees of available community resources. The methods used may include, but are not limited to, the following:

- A. Posting information on the impact of domestic violence and available community resources at Efficiency Maine work sites. This information may include available sources of assistance such as availability of the state's Employee Assistance Program, domestic violence projects, sexual assault centers and human resources personnel who are trained and available to serve as confidential sources of information, support or referral.
- B. Including information on this policy and domestic violence awareness and services as part of the new employee orientation and in the new employee orientation packet.
- C. Conducting domestic violence awareness activities in staff meetings, programs such as "brown bag lunches" and health and wellness programs.
- D. Distributing to all current employees.

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<sup>1</sup> Certain persons are "mandated reporters" of abuse or neglect of children, and abuse, neglect or exploitation of incapacitated or dependent adults. Mandated reporters include law enforcement officials. See 22 M.R.S.A. § 4011-A; 22 M.R.S.A. § 3477. In addition, any person may make an optional report if that person has reasonable cause to suspect that a child or incapacitated adult has been or is likely to be abused. Victims should be aware that situations involving suspected abuse, neglect or exploitation of children or incapacitated or dependent adults may be reported to outside agencies, as provided by law.

## **Procedure – Employees Affected by Domestic Abuse**

- A. Efficiency Maine seeks to offer support and referrals for assistance to those employees who disclose concerns or request assistance.
- B. Each employee is encouraged to discuss any concerns about being safe at work with a supervisor, manager, or appropriate human resources personnel. An employee who experiences or witnesses violence or threats of immediate violence in the work place, regardless of whether the employee is a victim or not, should report the incident to a supervisor, manager, or appropriate human resources personnel immediately. In all circumstances, to ensure the safety and protection of all Efficiency Maine employees, any employee who has information that there is a threat of violence to any other person in the work place should, as soon as practicable, report the threat to a supervisor, manager, or appropriate human resources personnel.
- C. Efficiency Maine is committed to the effective enforcement of protection orders. In this regard, an employee is encouraged to provide a copy of a protection order issued pursuant to a petition filed by the employee to the employee's supervisor or manager, particularly when the work place is listed on the order so that every attempt can be made to take steps to enforce the order and protect that employee and others. The employee is encouraged to keep a current copy of protection order immediately available in the work place.

## **Procedure – Response and Assistance to Victims of Domestic Violence**

- A. If an employee believes a co-worker is a victim of domestic violence, they are encouraged to contact a supervisor to discuss their concern and appropriate response. If a victim discloses domestic abuse to a co-worker, that co-worker should avoid victim blaming and send the following messages: you are not alone, you are not to blame, there is help available, and I am concerned about your safety. The co-worker may wish to refer the victim to:
  - 1. Available resources including the domestic violence and sexual assault agencies, and the Employee Assistance Program.
  - 2. Other individuals within Efficiency Maine who may be able to provide assistance to the victim such as human resources personnel and the victim's supervisor.
  - 3. Sections of this policy that support safety planning and assistance to victims.
- B. Supervisors are responsible for communicating that domestic violence is behavior that will not be tolerated in the work place and that Efficiency Maine will actively provide information and support to employees who are victims of such abuse.

- C. A supervisor or manager who becomes aware that an employee is a victim of domestic violence shall consult with appropriate human resources personnel to determine an appropriate response. Such response may include:
1. Offering the victim information about appropriate organizations for support, which includes the domestic violence projects listed in Appendix A and that assistance is also available through the Employee Assistance Program.
  2. Offering use of earned leave or leave without pay for the purposes of accessing domestic violence services, counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking, in accordance with 26 M.R.S.A., §850, *Employment Leave for Victims of Violence*.
  3. Offering to assist the victim in developing a work place safety plan. If the victim and abuser are both employed by the Department, the work place safety plan should make arrangements to protect the victim from any threat posed by the abuser. The needs of the victim are of primary importance and isolating the abuser from the victim is preferred if relocation for safety purposes is an issue.
- D. Department employees with supervisory responsibilities and any other designated individuals who will respond to victim and abuser will receive training on domestic violence in the workplace.
- E. Performance Issues: This policy recognizes that victims of domestic violence may have performance problems such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor or manager that job performance issues are caused by domestic violence, referrals and assistance should be offered in accordance with this policy along with an opportunity to correct the performance issue. Nothing in this policy alters the authority of Efficiency Maine to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave or take other action as it deems appropriate.
- F. Where the other party in an incident of domestic violence or sexual assault involving an employee is an employee of a State agency, the human resources personnel will inform that agency, when there is reason to believe a workplace issue exists, to assure that appropriate responses to the situation are coordinated.

#### **Procedure – Requirements of and Response to an Employee Who is an Abuser**

- A. If an employee is concerned that a co-worker is a perpetrator of domestic violence, sexual assault, or stalking, the employee should contact the appropriate

human resources personnel. The employee should not approach the co-worker directly.

- B. An employee who is found using any Efficiency Maine resources such as work time, work place telephones, a firearm, facsimile machines, mail, electronic mail, an Efficiency Maine state vehicle, an Efficiency Maine credit card or other means to commit an act of domestic violence, sexual assault or stalking will be subject to disciplinary action, up to and including termination. Similarly, any employee who is arrested, convicted, or issued a court order as a result of domestic violence, sexual assault or stalking, when such action has a nexus/connection to their employment with Efficiency Maine, will be subject to disciplinary action, up to and including termination.
- C. Any employee of Efficiency Maine who is named as a defendant in a protection order must disclose to their supervisor or manager any temporary or permanent order for protection from abuse or harassment with conditions that include:
  - 1. Conditions prohibiting or limiting contact with other employees of the Department.
  - 2. Conditions that may interfere with the employee's ability to perform job duties such as a prohibition against carrying a firearm, or a no-contact order involving any person with whom the employee may come in contact while carrying out the duties of their employment.
  - 3. Failure to disclose the above information may result in disciplinary action up to and including termination.
- D. A supervisor or manager who becomes aware of a protection order or other information regarding an employee who is an abuser shall keep that information confidential to the extent permitted by law and may only discuss the information with those persons who need to be informed.
- E. An employee who is an abuser is encouraged to voluntarily seek assistance from the Efficiency Maine's confidential Employee Assistance Program or from any of the certified batterer's intervention program.

### **Retaliation**

Any retaliatory action resulting from an employee making a complaint or observation of domestic violence, or otherwise asserting rights or responsibilities under this policy or relevant laws is a serious violation of this policy and will be subject to disciplinary action.

### **Documentation**

The Human Resources Office will develop necessary protocols related to maintaining records of domestic violence disclosures.

**Procedure – Employees Affected by Sexual Abuse and/or Stalking**

Those employees who are victims of sexual assault or stalking should be referred to the appropriate sexual assault crisis and support center.

**Conclusion**

Efficiency Maine is committed to providing a supportive and caring work place environment free of domestic violence. Efficiency Maine will respond to and provide assistance to a victim. Victims will be treated with compassion and will not be judged.

## **OUTSIDE COMPLAINTS AGAINST EFFICIENCY MAINE TRUST EMPLOYEES**

Section 7036(28) of Title 5 provides that all state agencies "...establish a policy that makes certain that complaints made by the public against a state employee or group of state employees are addressed by that agency". The following establishes a process to meet the requirements of this law.

### **PROCEDURE**

1. Members of the public with complaints against employees of Efficiency Maine Trust may report such complaints through the mail, email or by telephone.
2. Any employee, who receives a complaint from a member of the public against an employee, or group of state employees, must refer the complaint to the Administration Division head.
3. Upon receipt of the complaint, the Administration Division head, after consultation with the Executive Director, shall determine what action should be taken. The employee shall be notified of the complaint. In the event of a conflict of interest or in other appropriate circumstances, the Executive Director may refer the matter to the Chairman of the Board of Trustees, or the assigned Assistant Attorney General or a designee.
4. Review of complaints will be completed within a reasonable time. If there needs to be an investigation of a bargaining unit employee as that term is defined in the relevant contract, the investigation shall comply with the provisions of applicable law, rule and collective bargaining agreement.
5. All reviews of complaints are to be conducted in a professional and confidential manner.
6. The Findings will be shared with the employee.

### **NOTIFICATION TO THE COMPLAINANT**

Upon final disposition, and if appropriate, the complainant shall be notified that the matter has been looked into and dealt with by the Office. If appropriate, the complainant will be notified of the outcome of any review, to the extent permitted by civil service rules, applicable law, contractual requirements or the personnel manual.

### **ADMINISTRATIVE RESPONSIBILITY**

The Administration Division head shall ensure that:

1. All citizen complaint records and subsequent review of said complaints remain confidential as required by statute.
2. Each complaint and any subsequent review are documented.

3. An annual summary report is prepared for the Executive Director that includes any information or data that will aid in identifying the need for training, supervision, or other actions that may be appropriate.
4. This policy is distributed to all employees of Efficiency Maine by inclusion in the *Efficiency Maine Trust Personnel Manual*, is posted on the Efficiency Maine website, and is otherwise made available to the public.

<sup>1</sup> Some complaints may contain facts that warrant referral to the Departmental Equal Employment Opportunity/Americans with Disabilities Act Coordinator or to another appropriate local, state or federal agency.

**SIGNATURE PAGE FOR THE EFFICIENCY MAINE TRUST PERSONNEL MANUAL  
FOR NON-STATE EMPLOYEES**

I certify that I have been provided a copy of and read the personnel manual and that if I have any questions regarding any contents listed I can ask my Supervisor.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Printed Name of Employee

\_\_\_\_\_  
Printed Name of Supervisor

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

## **EFFICIENCY MAINE TRUST**

### **CONTRIBUTIONS POLICY**

#### **Definition of Contributions**

Pursuant to MRS Title 5, chapter 379 §12021 “Contributions” include payment for membership dues and fees, gifts and donations, and sponsorships including those that result in public advertising of the entity.

#### **Memberships**

Efficiency Maine Trust (the Trust) will only become a member of an organization that is directly related to the Trust mission. Such organizations may include but are not limited to: state and regional Chambers of Commerce; real estate associations; trade associations representing contractors and suppliers involved in the delivery of energy efficient or alternative energy equipment or services, utilities, energy and efficiency program administrators. The organization must provide benefits such as opportunities: to learn best practices relevant to the Trust’s activities, to collaborate on policy directions within the Trust’s mission, and to make the availability of the Trust’s programs known to an audience that can benefit from its programs.

The Trust will pay for an employee’s professional dues and fees to maintain any professional licenses required to perform their job at the Trust.

The Trust also encourages employees to join and participate in professional organizations directly related to their job assignments. Requests for payment of individual memberships will be evaluated on a case-by-case basis and must be reviewed and approved by the employee’s supervisor who will review duplicative membership requests to determine whether cost savings could be achieved by staff sharing the benefits of a single membership.

All organizational memberships must be approved by the Director. The Director will confer with the Chair of the Trust’s Board regarding the payment of more than \$1,000 to any one organization in a year.

#### **Sponsorships**

A sponsorship is the Trust’s contribution of funds, materials, or services to an entity in connection with an event or project of the entity in exchange for some form of recognition, acknowledgement or other promotional consideration of the Trust. The Trust may only provide

sponsorships that have a direct nexus to and advance the Trust's mission and programs and to carrying out the Trust's duties.

Sponsorships require approval by the Director of the Trust.

### **Gifts and Donations**

The Trust does not make gifts or donations.

### **Budget and Reporting**

The annual budget approved by the Trust's Board will include a line item for the Trust's membership dues and fees and a line item for the Trust's sponsorships of organizations, events or initiatives. The Trust will include a report of the Trust's payments for memberships and sponsorships in the budget variance report provided to the Board monthly. The Trust will report to the Legislature a list of persons to whom Contributions in excess of \$1,000 were made. The Trust will maintain documentation supporting the justification for each Contribution for three years.

Effective January 1, 2013

# **EFFICIENCY MAINE TRUST**

## **Travel Policy**



**MAY 4, 2011**

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# Efficiency Maine Travel Policy

## Travel Management Requirements

### Introduction

It is the responsibility of all Trust staff involved in travel on behalf of Efficiency Maine to assure that all terms and conditions of the policy are followed and that sufficient documentation is maintained to justify all expenses. The purpose of this policy is to establish the requirements for Efficiency Maine payment of expenses for Efficiency Maine business which require in-state or out-of-state travel with a private vehicle, rental vehicle or by public or commercial transportation.

For purposes of this policy, programs shall refer to those costs associated with discrete funding whose activities are intended to achieve the direct mission of the Trust. Non-programs shall refer to those costs associated with administratively funded activities intended to indirectly achieve the mission of the Trust by supporting the programs of the Trust.

### Responsibility for this Policy

The Efficiency Maine Executive Director is responsible for ensuring the efficient use of systems according to this policy. The interpretation of appropriate use and future revisions of this policy are the responsibility of the Executive Director.

### Adoption of this Policy

On May 4, 2011 the Board of Trustees at a regular business meeting adopted this policy and authorized the Executive Director to implement the policy and to make technical and minor changes without seeking additional authorization of the Board. The policy will be reviewed by the Governance Committee at least once per fiscal year for non-minor changes and/or updates which will be referred to the Board for final action:

### General Policy

It is the general policy of the Efficiency Maine to reimburse all approved job related expenses. It is understood that no set of rules can cover all situations. Efficiency Maine's travel policies are intended to create an "accountable plan", as described by IRS Publication 463. The following two tests will be applied to all claims for reimbursements.

1. The travel expenses must be business related while performing services as a Trustee, officer, official or employee of Efficiency Maine Trust.
2. The expenses must be reasonable under the particular circumstances involved and, be fully documented per the policy,
3. Trustees, directors and employees must return any excess reimbursement or allowance within a reasonable period of time, per the policy.

### **Settlement of Travel Claims**

Employees who incur expenses will submit requests for reimbursements within thirty (30) days of the date the expense is incurred. Cash travel advances are authorized for employees, but employees must submit documentation within thirty (30) from the date of their return. Employees will either reimburse the Efficiency Maine for any advance greater than cost; or request reimbursement from the Efficiency Maine for costs in excess of the advance.

### **Division Head Responsibility**

Division heads are responsible for assuring that all travel reimbursement requests and post travel settlements are submitted in a timely manner. Employees who fail to submit mileage requests within thirty days of the end of the month in which they travel will forgo payment of the mileage due, unless there are compelling circumstances which prevented the submission of the requests.

### **Failure to Settle Travel Claims**

Employees who fail to settle up travel advances within thirty days of the date of their return from the trip will not be eligible for any additional travel advance until all prior travel advances are either settled or repaid to the Efficiency Maine unless there are compelling circumstances which prevented the submission of the requests.

### **Employee defined**

For purposes of this policy, the term "employee" will refer to any person who travels on behalf of the Efficiency Maine to conduct Efficiency Maine business at the Efficiency Maine's expense. Such term will include but not be limited to trustees, directors and employees. This policy will not apply to independent contractors.

---

### **Compliance with these policies**

The following persons must comply with the policies in this chapter:

1. All employees as defined above in section "Employee Defined" who are conducting Efficiency Maine business at the Efficiency Maine's expense have the duty to know, to use and to comply with these policies, unless otherwise provided by law.
2. Persons other than Efficiency Maine employees, as defined, whose travel expenses are authorized by statute or the grant and paid through Efficiency Maine but the statute or grant is silent as to the process of the reimbursable amount.

---

### **Responsibilities of Efficiency Maine management**

The Executive Director, Chief Financial Officer and Division heads are to:

1. Ensure that any travel costs incurred are:

- Directly work related,
  - Obtained at the most economical price, and
  - Both critical and necessary for Efficiency Maine business.
2. Exercise prudent judgment in approving travel-related costs.
  3. Follow the requirements of the system for management and control over travel-related costs that includes:
    - Adherence to the policies and procedures which cover the items required in this chapter.
    - Authorization or approval of travel costs.
    - Clearly defined roles and responsibilities.
  4. Ensure that Efficiency Maine employees, as defined, use the procurement methods required in this policy, and maintain a record for all credit cards that are issued.

Divisions may not administer internal travel policies or reimbursement allowances other than those contained in this chapter.

---

### **Responsibilities of Efficiency Maine travelers**

A traveler on Efficiency Maine business is responsible for:

1. Being familiar with Efficiency Maine travel and transportation policies and procedures before embarking on travel.
  2. Exercising the same care in incurring expenses and accomplishing the purposes of the travel that a prudent person would exercise if traveling on personal business. Excess costs, circuitous routes, delays, or luxury accommodations unnecessary or unjustified in the performance of official Efficiency Maine business travel are not acceptable.
  3. Paying any excess costs and any additional expenses incurred for personal preference or convenience.
  4. Returning as promptly as possible when the Efficiency Maine business is completed.
  5. Securing prior authorization for travel when required. (See: Prior authorization for travel required subsection) The employee is at risk of not receiving proper reimbursement for any expenses incurred if they do not follow proper procedure and secure proper authorization for travel.
  6. Preparing the Travel Authorization Final Expense Report and providing appropriate receipts and documentation as required in Travel Expense Claims, payment, reimbursement and Advances and other sections of this section.
-

## **Criteria for selecting and approving travel**

Efficiency Maine management must use the following criteria to determine whether to authorize a person to travel on Efficiency Maine business, and to determine what travel alternatives to authorize. Agency heads must be cognizant of the requirements of the Fair Labor Standards Act when determining travel alternatives.

1. Select the travel alternative that is most economical for Efficiency Maine. This criterion must be used except in the situations noted below. All costs should be considered, travel, labor, etc.,-in making the determination.
2. Select the travel alternative that is most advantageous to Efficiency Maine when there are additional considerations. The personal travel plans of the traveler shall not influence this criterion.

Efficiency Maine may use this criterion only in the following situations:

- To ensure the health and safety of agency travelers;
- To comply with the Americans with Disabilities Act;
- Process and travel situations for meals with meetings;
- Use of privately owned motor vehicles

---

## **Alternatives to travel**

Efficiency Maine management is to consider alternatives to travel, as well as less expensive means of travel. These methods should include, but are not limited to:

1. Teleconferencing and video conferencing;
2. Video recordings and published reports;
3. Making transportation arrangements through approved or contracted travel agents;
4. Car-pooling and greater use of public transportation;
5. Reducing the frequency of regularly scheduled out-of-town meetings;
6. Restricting the number of staff traveling to the same destination; and
7. Coordinating with other entities or state agencies for joint travel arrangements when other entities or state agencies are involved.

---

## **Considerations when authorizing employee travel**

Plan the itinerary of the traveler to eliminate unnecessary travel in the performance of work assignments. Whenever it is feasible for two or more persons to travel on Efficiency Maine business in one vehicle, they are to do so.

## **Health and safety of travelers**

The health and safety of travelers is a top priority in the conduct of travel related activities. Management and the traveling employee will establish and alter travel plans and itineraries with consideration of hazardous inclement weather and other situations that could threaten the health and safety of employees. When this occurs, travelers should:

1. Promptly notify the traveler's supervisor of the change in travel plans.
  2. Note the reason for any additional expense on the traveler's Travel Authorization Final Expense Report.
- 

## **Americans with Disabilities Act**

Compliance with the Americans with Disabilities Act (ADA) is required by law and thus considered to be advantageous. All personnel are to be afforded equal opportunity to travel for Efficiency Maine business, consistent with their roles and responsibilities, even if the travel costs for disabled travelers will exceed what would normally be most economical to Efficiency Maine. For example:

1. When a traveler uses a wheelchair and it is necessary to pay more for an airline ticket so the traveler can fly on a larger airplane that can accommodate the wheelchair.
2. When a traveler has hearing or vision impairments and there is a cost of providing auxiliary aids and services to enable the traveler to successfully accomplish the purpose of the travel.

Travel authorizations and travel claims should be annotated that the extra costs were required to comply with the ADA. ADA supporting documentation should remain confidential and a statement added to the travel voucher indicating the agency file location.

---

## **Efficiency Maine Business Credit Card Program**

The term "Efficiency Maine Business Credit Card Program" comprises the use of the authorized business credit card issued to individual employees under the Efficiency Maine credit card relationship. This system has the following components that can be used for travel purchases:

1. The Executive Director or the Chief Financial Officer is to authorize the use of or approve the issuance of an Efficiency Maine Business Credit Card ("credit card") to those travelers whose work requires them to travel on Efficiency Maine business. The individual credit card can only be used for authorized Efficiency Maine travel purchases and then only by the person to whom the card was issued.
2. The issuance of a credit card to an employee is subject to approval by the credit card issuer. Efficiency Maine will set a credit limit consistent with the business needs of the employee and the protection of Efficiency Maine. The employee assumes personal responsibility for payment of the charges to the card issuer.
3. Efficiency Maine may pay the credit card statement directly to avoid delays in payments, but that payment does not relieve the traveler of responsibility for submitting travel reimbursement requests. A consistent pattern of an employee failing to reconcile travels

expenses in a timely manner will impact future travel authorization and/or the continued use of the credit card.

4. Efficiency Maine's payment of employee's credit card statements will render the costs to be reimbursed as a travel advance.
5. An employee who use the credit card for personal or unauthorized expense will be responsible for the payment of such charges and may lose the right to use a business credit card

In cases where a credit card receipt is issued, the traveler is to attach the original receipt to the Travel Authorization Final Expense Report. Unless the credit card receipt itemizes all of the individual costs rather than only listing to the total of the charge, the traveler must submit a separate original fully-itemized invoice.

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### **Prior authorization for travel required**

Travelers must receive prior authorization from their division head or the Executive Director:

1. Whenever a travel advance is required by a traveler, or
2. For all in-state overnight or out-of-state travel.

Out-of-state travel by trustees on behalf of and at the expense of Efficiency Maine must receive prior authorization for travel from the Board Chair. In the case of the Board Chair, the Board Vice-Chair is the approver. All policies and procedures contained herein apply equally to trustee travelers.

The requirement for prior authorization is not applicable for trustees who are traveling to Efficiency Maine board meetings, committee or work group meetings or other meetings where the member is attending in their capacity as a trustee.

---

### **Scheduling meetings, conferences, conventions, and training sessions**

When meetings or conferences are necessary, staff must give first preference to locations at publicly owned facilities such as state or local government facilities. Cost effectiveness must be a prime consideration when planning these events.

Limit the number of persons from personnel attending a particular conference, convention, meeting, or training session to the minimum necessary to benefit from the event.

The location and facilities for all conferences, conventions, training sessions, or meetings held or sponsored by Efficiency Maine are to be barrier-free. Staff arranging such functions should consider the cost, the suitability of barrier-free facilities, accessibility to attendees, and other relevant factors in their selection. The first priority is to be given to using publicly owned barrier-free facilities in lieu of renting or leasing other facilities.

The size, nature or content of the planned activity may mitigate against the use of a public-owned facility. Where a convention, conference, training session, or meeting held or sponsored by the

Efficiency Maine is conducted at a rented or leased barrier-free non-state facility, the person responsible for the choice of location and facilities is to review the justification in advance with management for approval. The justification should include:

1. The purpose and objective of the meeting;
  2. The name of the organizations or persons expected to attend and an estimate of the attendance;
  3. An estimate of the anticipated cost to include travel costs of Efficiency Maine travelers; and
  4. An explanation why public owned barrier-free facilities cannot be used.
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## Travel Reimbursement Principles

### Reimbursable travel costs

Travelers may be reimbursed for the following types of expenses incurred on Efficiency Maine business subject to the requirements and restrictions of this chapter.

1. **Lodging**— Actual cost of lodging up to a specified maximum. An original itemized receipt is required. (Refer to the Lodging Section for more information)
2. **Meals**— Allowable rate for meal reimbursement (Refer to Meals Section for more information).  
  
Lodging and meal rates comprise the two components of the maximum allowable per diem rate for the Continental United States (CONUS). The meals and incidental rate for travel outside the Continental United States will be based on CONUS' foreign travel rates.
3. **Transportation**—Costs of necessary Efficiency Maine business travel using private motor vehicles, rented motor vehicles, railroads, airlines, ships, buses, taxis and other means of conveyance. (Refer to Transportation Section for more information.)
4. **Miscellaneous travel expenses**—Other costs essential to the transaction of Efficiency Maine business are reimbursable to the traveler. (Refer to Miscellaneous Travel Expenses Section for more information.)

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### Non-reimbursable travel costs

The following types of travel-related costs **shall not** be reimbursed.

1. Alcoholic beverage expenses
2. The cost of the daily commute between the traveler's residence and their assigned office. (For details on mileage that can be reimbursed, refer to Reimbursement for privately-owned motor vehicle use and Calculating Commuting Mileage Subsections.)
3. Certain travel expenses are considered as personal and not essential to the transaction of Efficiency Maine business. Such non-reimbursable expenses include, but are not limited to:
  - Valet services, defined as the hiring of a personal attendant who takes care of the individual's clothes, or helps the individual in dressing, etc. The prohibition against valet services for general travelers is not to be considered as a prohibition against the use of a personal care attendant required by a disabled person under the provisions of Costs associated with accommodation for employees with disabilities Subsection.
  - Entertainment expenses, radio or television rental and other items of a similar nature.

- Taxi fares, motor vehicle rental, and other transportation costs to or from places of entertainment and other non-business locations.
- Costs of personal trip insurance (such as personal accident insurance, personal effects insurance, and extended liability insurance), and medical and hospital services.
- Personal telephone calls other than the allowable as provided by a collective bargaining agreement for state employees.
- Any tips or gratuities associated with personal expenses such as those listed here.
- Out of pocket charges for vehicle service calls caused by the negligence of the traveler. Examples include service charges for the delivery of fuel, retrieval of keys from locked vehicles, jump starting vehicles when the lights have been left on, etc.

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**Meals and lodging reimbursements shall not exceed the maximum allowable per diem rate**

Reimbursement for meals and lodging shall not exceed the maximum allowable per diem rate for that location, unless:

1. An exception is specifically provided by statute, or
2. Within the terms and conditions of a grant-in-aid, or
3. Authorized by Exceptions to the maximum allowable lodging rates Subsection, Lodging for employee meetings, conference, conventions and training sessions Subsection, or Exceptions to the meal allowances Subsection.

The maximum allowable per diem rates for the Continental USA, Non Continental USA, and Foreign locations can be found in Travel Rates Section.

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**Travel for the convenience of the traveler**

If travel to a destination for the traveler's own convenience is in advance of the necessary time for arrival:

No reimbursement for additional meals or lodging costs shall be paid to the traveler for extra field time incurred.

If a traveler would like to couple a vacation or other personal use onto a legitimate business trip:

It is allowed WHERE ALL OF THE FOLLOWING CONDITIONS EXIST:

- 1 The primary purpose of the trip is Efficiency Maine business;
- 2 The traveler uses, where necessary, his or her earned and available paid time off for the vacation or personal part of the trip; and
- 3 Efficiency Maine does not incur any extra expenses beyond what it would normally incur had the trip occurred without any personal use coupled to the trip.

If a traveler spends extra field time at the destination:

The Executive Director or designee may authorize per diem for extra field time at the destination if it can be demonstrated that a direct savings will accrue to Efficiency Maine. The calculation of the direct savings is to include a comparison of the commercial transportation costs; the per diem costs; and, when applicable, the salary and fringe benefit costs of the traveler(s) for whom the extra field time is being authorized. Such comparisons are to be documented and retained with the traveler's Travel Authorization Final Expense Report.

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### **Leave of absence during travel**

When a traveler takes leave of absence (such as paid time off) of any kind because of being incapacitated due to illness or injury that is **not due** to the traveler's own misconduct:

- 1 The authorized reimbursement for meals and lodging may be continued during the leave period.
- 2 Providing the traveler is able to travel, reimbursement is not to exceed in total the cost authorized for motor vehicle car mileage or common carrier in returning the traveler to the office or residence, whichever is closer, and then back to the assignment.

When a traveler takes leave of absence of any kind as a result of illness or injury that is **due** to the traveler's own misconduct, the authorized reimbursement for meals, lodging, transportation, and all other travel expenditures may not be continued during the leave period.

When leave of absence of any kind is taken while in a travel status, the exact hour of departure and return to service must be shown on the Travel Authorization Final Expense Report.

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### **Travel expenses reimbursed by other entities**

If Efficiency Maine business travel expenses are to be paid by a person or entity other than Efficiency Maine, travelers are not to be reimbursed more than the actual expenses of travel except for meals which can be reimbursed on an allowance basis as listed in the Travel Rates Section. The Executive Director or designee will give prior approval for the travel before an employee may submit payment of Efficiency Maine travel expenses by an entity other than Efficiency Maine. **Ethical issues must be considered when approving having Efficiency Maine business travel costs paid for by another entity.**

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## Lodging

### Reimbursing lodging costs

Efficiency Maine may reimburse lodging expenses at actual costs, **as evidenced by a fully itemized receipt**, up to the specific daily maximum allowable lodging rate in effect at the time of travel for the specific area or locality, unless:

1. An exception is specifically provided by the Executive Director or Chief Financial Officer, or
2. Authorized by the Exceptions to the maximum allowable lodging rates Subsection.

Refer to Meals and lodging reimbursements shall not exceed the maximum allowable per diem rate Subsection for the maximum allowable lodging rates for the Continental USA (CONUS).

Travelers will be reimbursed taxes paid on lodging in addition to the Maximum Lodging Amounts contained in the Travel Rates Section. Code the payment of taxes on lodging as lodging expense. Refer to Travel Rates Section for rules on lodging taxes for the Non Continental USA and foreign locations.

Travelers requesting reimbursement for staying in commercial lodging facilities must obtain original itemized receipts and attach them to their Travel Authorization Final Expense Report.

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### Exceptions to the maximum allowable lodging rates

**In the following situations**, the maximum allowable lodging amounts may not be adequate and the agency head or authorized designee may approve payment of lodging expenses not to exceed the applicable maximum per diem amounts listed in the Travel Rates Section by more than 10%:

1. When a traveler is assigned to accompany an elected official, a foreign dignitary, or others as authorized by law, and is required to stay in the same lodging facility.
2. When costs in the area have escalated for a brief period of time either during special events or disasters.
3. When lodging accommodations in the area of the destination location are not available at or below the maximum lodging amount, and the savings achieved from occupying less expensive lodging at a more distant site are consumed by an increase in transportation and other costs.
4. When the traveler attends a meeting, conference, convention, or training session where the traveler is expected to have **business interaction** with other participants in addition to scheduled events. Further, it is anticipated that maximum benefit will be achieved by authorizing the traveler to stay at the lodging facilities where the meeting, conference, convention, or training session is held.

5. In order to comply with provisions of the Americans with Disabilities Act, or when the health and safety of the traveler is at risk as provided for in other sections of this policy.

**In the following situations**, the division head may approve payment of lodging expenses in excess of the applicable maximum per diem amount for the location:

1. The traveler is required to attend a meeting, conference, convention, or training session where the traveler is expected to have **business interaction** with other participants in addition to scheduled events; AND
2. It is anticipated that maximum benefit will be achieved by authorizing the traveler to stay at the lodging facilities where the meeting, conference, convention, or training session is held; AND
3. The lowest available advertised lodging rate at the lodging facility exceeds the applicable maximum per diem amount for the location. Documentation supporting the lodging rates is to be attached to the travel voucher or its file location referenced.

When any exception to the Maximum Allowable Lodging Amount is used, the traveler is to select the most economical room available under the circumstances.

Include the written approval for the exception, signed by the a director level employee, as part of the payment document. Also provide an explanation describing why an exception was necessary.

The Executive Director or Chief Financial Officer may provide an exception when circumstances, special duties or conditions of an assignment result in unusually high expenses.

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### **Lodging for employee meetings, conferences, conventions, and training sessions**

When Efficiency Maine arranges for off-site meetings, conferences, conventions, and training sessions, it will arrange for overnight lodging as-needed. To the extent possible, Efficiency Maine will arrange to receive direct invoicing from the facilities for the lodging costs only. Attendees are responsible for settling up- any personal charges and costs and may not use the Efficiency Maine credit card for personal costs.

Costs incurred by a traveler during occupancy of a commercial lodging facility rented on other than a daily basis, such as on a weekly or monthly basis, may be reimbursed not to exceed the total obtained by multiplying the number of days involved times the applicable daily lodging amount(s) as stated in the Travel Rates Section.

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### **Non-reimbursable lodging costs**

Reimbursement of lodging expenses incurred at a lodging facility located near either the office or traveler's residence is prohibited except:

1. As an allowable moving cost , or
2. Extraordinary emergency situations that require an employee to remain at his/her work station.

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### **Lodging expenses for the normal return night may be reimbursed in certain situations**

Efficiency Maine may reimburse a traveler for lodging expenses for the normal return night (as defined in the glossary) to allow the traveler to remain overnight away from the office or residence under one of the following three conditions:

1. When the overnight stay is more economical to the Efficiency Maine. Complete justification should be referenced or attached to the traveler's Travel Authorization Final Expense Report.
2. The health and safety of travelers is considered advantageous to Efficiency Maine and can be used to justify an overnight stay. The definition of health and safety, approval process and documentation requirements are included in Health and safety of travelers Subsection.
3. Compliance with the Americans with Disabilities Act (ADA) is considered advantageous to Efficiency Maine and can be used to justify an overnight stay. The Travel Authorization Final Expense Report should be annotated that the extra costs were incurred to comply with the ADA. Refer to the Americans with Disabilities Act Subsection.

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### **Purchasing lodging accommodations**

The preferred method for purchasing lodging accommodations while on Efficiency Maine business is through the use of the Efficiency Maine credit card or a travel agency, when such arrangements are made. Travelers are to attach original lodging receipts to the Travel Authorization Final Expense Report for all lodging reimbursements.

Travelers should apply for all exemptions offered by state or local governments to governmental travelers. For a listing of possible tax exempt sites please use the GSA website <http://www.gsa.gov/portal/content/104878>. (From time to time hyperlinks may change or be replaced, if staff finds that a hyperlink is not working the Finance Division should be contacted for assistance and an update of this policy.)

Also, staff should apply for various tax rebates offered for business travel to the provinces of Canada if they are available.

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## Meals

### Reimbursing meal costs

Reimbursement for meal expenses is on a per diem basis not to exceed the amounts in effect at the time of travel, unless:

1. An exception is specifically provided by statute, or the grant-in-aid,
2. As authorized by the Exceptions to the meal allowances Subsection.

The meal allowances for the Continental USA are stated in the Travel Rates Section.

When it becomes necessary to determine the amount to reimburse for individual meals (from the daily meals rate), use the following calculations rounded to the nearest dollar:

1. The breakfast portion is 20% of the set daily meals entitlement.
2. The lunch portion is 24% of the set daily meals entitlement.
3. The dinner portion is 51% of the set daily meals entitlement.
4. Incidental expense portion is 5% of the set daily meal entitlement.

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### Exceptions to the meal allowances

Generally, travelers are to be reimbursed for actual meal expenses up to the set per meal entitlement rates stated in the Travel Rates Section. When receipts for meals are required, reimbursement will be based on an actual cost basis as evidenced by a receipt up to the applicable maximum per meal entitlement amount stated in the Travel Rates Section.

Whenever statute permits meals to be reimbursed at actual cost and the actual cost exceeds schedule allowances, receipts are to be attached to the Travel Authorization Final Expense Report.

Management may approve reimbursement for the actual cost of a meal when Efficiency Maine requires the employee to attend a meeting that is being held or sponsored by another organization. The actual cost of the meal, as evidenced by a receipt, is eligible for reimbursement as long as the meal is an integral part of the meeting. (Refer to Reimbursement for meals with meetings Subsection).

Meal payments are not required to be reduced or eliminated due to meals served on airlines. Similarly, meal payments are not required to be reduced for continental breakfasts which may be included in the lodging rate or registration fee of a meeting, conference, convention, or formal training session. Travelers should review IRS tax regulations regarding the taxation of these payments.

## **Types of costs included in meal allowances**

Meal allowances cover the following costs:

1. The basic cost of a meal,
  2. Any incidental expenses,
  3. Any applicable sales or meal tax, and
  4. Any usual and customary tip or gratuity.
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## **Non-reimbursable meal costs**

Reimbursement for meal expenses incurred at the traveler's office is prohibited, except for extended work days defined in Criteria for meal costs Subsection.

Reimbursement for meal expenses is not to be authorized when a traveler does not incur expenses for meals because they are furnished.

Where identifiable costs of meals are included in the lodging rate or registration fee of a meeting, conference, convention, or formal training session, the meal costs, not to exceed the designated meal allowances found in the Travel Rates Section, are to be deducted from the traveler's allowable travel reimbursement amount. If the included meal costs are not specifically identified, Efficiency Maine will not to pay the traveler the meal allowances.

See Advance approval for meals with meetings is required Subsection for situations where meals with meetings cannot be reimbursed.

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The following criteria must be met to receive a meal allowance:

### **1. Two Hour Rule**

A traveler may be reimbursed for meal expenses only after the traveler is in travel status for two hours beyond the traveler's regularly scheduled working hours for any one day. The two hours may consist of hours occurring during or after, or a combination of both during and after the traveler's regular scheduled working hours for the day.

This requirement is not applicable to the reimbursement provisions of the Reimbursing meal costs Subsection when the traveler is not in travel status).

### **2. In travel status during the entire meal period**

Traveler must be in travel status during the **entire** meal period(s) in order to qualify to collect **meal** payments for meal(s), except as provided in the Reimbursement for meals with meetings Subsection. The traveler may not stop for a meal just to meet the two-hour rule.

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## **Taxation of meal payments**

For **non-overnight** travel assignments, staff may wish to consult IRS publication 463 regarding the

taxation of meal payments to determine the impact of their federal tax treatment.

That publication is available at: <http://www.irs.gov/pub/irs-pdf/p463.pdf>. (From time to time hyperlinks may change or be replaced, if staff finds that a hyperlink is not working the Finance Division should be contacted for assistance and an update of this policy.)

For **overnight** travel assignments, IRS publication 463 requires all meals to be reimbursed at the rate in effect for the area where the traveler stops for sleep. The meal reimbursement rate for the last day of travel (return day) would continue to be the rate for the location where the traveler last stopped for sleep.

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### **Reimbursement for meals with meetings**

Management may authorize reimbursement for the allowable cost of meals of employees and others that Efficiency Maine it is legally authorized to reimburse, at meetings when the meetings are away from the employee's or official's regular workplace regardless of travel status. Reimbursements must be consistent with the requirements of Non-reimbursable meals Subsection and the Travel Rates Section. This authority is intended for use when the agency requires a person to attend a meeting where business meals are served, and where:

1. The purpose of the meeting is to conduct Efficiency Maine business or to provide training to Efficiency Maine employees, as defined; **and**
  2. The meals are an integral part of the business meeting, **and**
  3. Management approves payment for the meals **in advance** of the meeting where attendance by an Efficiency Maine employee(s) or others, and reimbursement for the meals regardless of travel status, is advantageous to Efficiency Maine.
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### **Advance approval for meals with meetings is required**

Staff and management must document the request and approval in advance for expenditures for meals with meetings using a Travel Authorization. The documentation should provide support for the authorization, including:

1. The purpose or intended accomplishments of the meeting, and
  2. Expected attendees
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## Transportation

### Reimbursable transportation costs

Reimbursable transportation expenses include the costs of all necessary business travel whether in private motor vehicles, rental motor vehicles, railroads, airlines, ships, buses, taxis, and other usual means of conveyance.

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### Reimbursement for privately-owned motor vehicle use

Management may authorize the use of a privately-owned motor vehicle in the conduct of business when it is more advantageous or economical that a person travel by a privately-owned vehicle rather than an Efficiency Maine owned or operated passenger motor vehicle, a rental motor vehicle or a common carrier. Efficiency Maine's Business Auto insurance will provide coverage in addition to the owner's vehicle insurance in the event of a collision or other damage.

Reimbursement for the use of a privately owned motor vehicle on business is to be at the private vehicle mileage reimbursement rate in effect at the time of travel.

Travelers will be reimbursed for documented mileage, as determined by odometer readings, less the traveler's daily commuting miles. Daily beginning and ending odometer readings, total miles traveled and commuting miles should be documented on the Mileage Reimbursement Request. Management may adopt standard mile between various locations which will be used in place of odometer readings. When such standard mileage amounts are adopted all travelers will use them instead of odometer readings. It is not acceptable for a traveler to report mileage by setting a trip meter without reporting the beginning and ending odometer readings.

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### Calculating Commuting Mileage

Definitions of terms used in mileage reimbursement rules:

"Residence", an employee's home

"Office" or 'assigned 'office", the worksite to which the employee is normally assigned. If Efficiency Maine should acquire one or more satellite offices employees who regularly work at satellite office will be assigned to those offices.

"Commuting distance", the distance the employee travels between their residence and their assigned office.

For employees who are assigned to a satellite office, that office is their assigned office for calculating commuting miles. Because the satellite office is provided as a convenience employees assigned to a satellite office will not be reimbursed for mileage when they travel to Augusta for Efficiency Maine meetings or business at the Efficiency Maine offices or state offices, including

Board of Trustee or Legislative hearings.

Working during hours or days that the employee is not normally scheduled to work **does not** entitle the employee to reimbursement for transportation mileage expenses traveling to the office.

**Example:** An employee works 10 hour days Monday through Thursday and has Fridays off. The employee is required to come into the office on Friday, to take care of an emergency. The employee leaves from home and travels to the office to take care of the emergency and returns home. The employee is not entitled to mileage reimbursement, since the trip is considered the employee's normal commute.

Employee who are at their office may be reimbursed for the miles driven between various offices and locations when on Efficiency Maine business without prior approval.

Reimbursement for the use of a privately owned motor vehicle is payable to only one traveler when two or more travelers are traveling in the same motor vehicle on the same trip.

Calculation of commuting miles: Employees will calculate a deduction from their gross daily miles traveled the amount of miles that they commute to and from the office. To encourage ride-sharing by the use of car-pools, van-pools alternative and public transportation employees may calculate a one-time weighted average for the commuting miles for the days worked during the month preceding the calculation date.

The employee's Division Head will review and approve the commuting amount. The calculation will be maintained in the Finance Office. The calculation will be updated annually and if the employee moves or changes the mode of commuting.

**Example:** Employee "A" lives 40 miles from the office and the daily commute is 80 miles. Employee "A" participates in a car-pool 3 days a week and travels 20 miles to the pickup site and rides to the office. For those three days the daily commute is 40 miles. On the other 2 days each week, employee "A" drives to the office with the other participants. The weighted average daily commute is 56 miles instead of 80 miles. The calculation is:

3 days per week X 4 weeks X 40 miles per day	480 miles
Plus 2 days per week X 4 weeks X 80 miles per day	640 miles
Total miles traveled	1,120 miles
Divided by 20 days equals	
Total Weighted Daily Commute	56 miles per day

The result is 56 daily commuting miles versus 80 miles per day without participating in a ride-share.

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### Use of a rental motor vehicle

A rental motor vehicle may be used for Efficiency Maine business under the following conditions:

1. An Efficiency Maine owned or operated motor vehicle is not available; or

2. The use of the rental motor vehicle is advantageous or more economical than other conveyance, or necessary business cannot be accomplished otherwise (e.g., mail, telephone, public transportation, etc.);
  3. The rental company does not charge a per mile fee and the minimum reimbursable miles if the employee were to submitted a request for mileage reimbursement is at least **180 daily miles**, and
  4. Use has been approved in advance by management.
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### **Restrictions and requirements on rental motor vehicle use**

Travelers may rent motor vehicles from rental firms where Efficiency Maine has an account. In the event such a firm does not have a vehicle available either locally or at the traveler's destination management may approve renting from another firm on a one-off basis. If the traveler does not have access to an Efficiency Maine credit card, the traveler's personal financial resources may be used to obtain the rental motor vehicle.

When the traveler is billed individually and seeks reimbursement for purchase of rental car services, the traveler should attach the original rental agreement and the itemized receipt for the costs to the Travel Authorization Final Expense Report. Record the date and purpose of the trip on the Travel Authorization Final Expense Report.

Transporting of unauthorized passengers in a rental vehicle is considered a personal decision. Efficiency Maine will not provide excess liability protection to any unauthorized passengers in the event of an accident.

It is Efficiency Maine's policy that the rental of motor vehicles charged to or reimbursed by Efficiency Maine does not authorize vehicles to be used for other than Efficiency Maine business. Therefore, when a traveler couples a personal vacation with business, the traveler is expected to execute a personal contract to rent a motor vehicle for the vacation portion of the trip.

Efficiency Maine provides insurance for "hired" or rented vehicles, therefore travelers should not request "CDW", and Efficiency Maine will not bear the additional cost of this coverage. Any additional health insurance will not be reimbursable as the traveler should be covered by the existing employee health plan or will be covered under Worker's Compensation coverage.

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### **Purchasing airline and other common carrier tickets in advance**

If Efficiency Maine determines it can save money by taking advantage of discounts offered by a common carrier for advance bookings and payments, it is authorized to pay for airline or other common carrier tickets prior to a scheduled trip if the following conditions are met:

1. The ticket is purchased competitively after receiving three bids, one or all which may be an internet quote.
2. Efficiency Maine will retain control of the ticket or E-Ticket authorization numbers(s). Tickets or E-Ticket authorization numbers should be provided to travelers in a timely

manner in advance of travel to avoid last minute problems.

3. The rules of the ticket purchase allow for a partial or full refund in the event that the ticket is not used.

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### **Purchasing airfare**

Only upon approval from the Executive Director or designee will the business credit card be used for purchasing airline, registration fees, car rentals and lodging. Per Diem, incidentals, etc. will still be reimbursed through the expense process.

All purchases of air travel must include Quotes (telephone or written) that have been requested from at least three qualified sources, which may be internet quotes, for the required itinerary. Written documentation of the quotes should include, at a minimum, name of person obtaining quote, date and time of quote, and travel agency from which the quote was obtained, if applicable.

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### **Airline contracts and limitations on reimbursement**

Reimbursement shall be at the lowest applicable air fare **not to exceed** tourist class or its equivalent. This reimbursement limitation may be exceeded, if necessary, for the health and safety of the traveler and/or when disabled persons (and a personal care attendant, if necessary for the disabled person to travel) are required to travel. Refer to the Health and safety of travelers and Americans with Disabilities Acts Subsections.

The airlines have added a number of fees to improve their profitability such as baggage fees and at times, fuel surcharges. Such additional costs are reimbursable and travelers should include proof of payment if those costs are not included in the ticket price.

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### **Airport selection**

Use the criteria for selecting travel alternatives stated in the Criteria for selecting and approving travel Subsection for airport selection. In most cases, this means travelers must select the most economical alternative.

Use of the local airport is assumed to result in travel expenses that are most economical to Efficiency Maine. Travelers are expected to use their local airport when traveling by regularly scheduled air service on Efficiency Maine business unless an alternative meets one of the criteria and conditions noted in the Criteria for selecting and approving travel Subsection.

A "Local Airport" is the airport that offers regularly scheduled air service that is closest to the point from which travel begins. In most situations it would be the airport closest to the traveler's residence. For out-of-state destinations, the closest airport that provides direct out-of-state flights may be considered the local airport.

The traveler is to provide documentation to support a decision to use an airport other than the local

airport

If the traveler chooses another airport for reasons other than those specified in the Criteria for selecting and approving travel Subsection, the traveler must bear any costs in excess of the most economical costs.

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#### **Limitations on reimbursement for non-air common carrier costs**

Normally, the maximum reimbursement for transportation expenses via non-air common carriers is the lowest applicable fare not to exceed the lowest class fare. This reimbursement limitation may be exceeded if necessary for the health and Safety of the traveler and/or when disabled persons (and a personal care attendant, if necessary for the disabled person to travel) are required to travel. Refer to the Health and safety of travelers and Americans with Disabilities Acts Subsections.

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#### **Changes in itinerary**

If there is an authorized change in a traveler's itinerary while on travel status to conduct Efficiency Maine business, the traveler, whenever possible, is to pay the added cost using the business credit card. If the traveler does not have access to a business credit card, the traveler may pay for the added cost from personal financial resources. The traveler is to attach the receipt for the added cost to the Travel Authorization Final Expense Report, or reference the agency file location.

In all cases where a traveler is billed individually and is seeking reimbursement for purchase of air carrier services, original receipts are to be attached to the Travel Authorization Final Expense Report, or reference the agency file location.

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#### **Purchasing common carrier transportation from personal financial resources**

A traveler should only use their personal financial resources to purchase common carrier transportation in an emergency situation.

When a traveler is billed individually and seeks reimbursement for purchase of common carrier services, the traveler must attach receipts to the Travel Authorization Final Expense Report.

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#### **Refunds for unused transportation services**

Efficiency Maine should receive a refund for unused tickets. In the current year, such refunds are treated as recoveries of expenditures.

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## Miscellaneous Travel Expenses

### Reimbursable miscellaneous travel costs

Miscellaneous travel expenses essential to the transaction of Efficiency Maine business are reimbursable to the traveler. Reimbursable expenses include, but are not limited to:

1. Taxi, shuttle, or limousine fares (including a customary tip or gratuity), motor vehicle rentals, parking fees, and ferry and bridge tolls
2. Registration fees required in connection with attendance at approved conventions, conferences, and official meetings
3. Rental of room in a hotel or other place that is used to transact Efficiency Maine business. The room rental is reimbursable as a separate item from lodging when authorized by the Executive Director or designee.
4. Charges for necessary facsimile (fax) services
5. Charges for Internet usage as long as they are the most cost effective and are for work related purposes. (Ex. All day vs. per minute.)
6. **Mandatory** fees charged by lodging facilities for items.

### Whenever possible bill expenses greater than \$50

Whenever possible, the traveler should request that the vendor of motor vehicle rentals, registration fees, rental of rooms for business, and other miscellaneous travel expenses in excess of \$50 bill Efficiency Maine. Refer to Miscellaneous supply costs that exceed \$50 and Direct payments to vendors for travel costs Subsections.

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### Costs associated with accommodations for employees with disabilities

The cost of travel related to accommodations for employees with disabilities may be approved on a case-by-case basis in consultation with the Administration Manager and the Executive Director. Documentation of the requirement for a personal care attendant must be provided to the Administration Manager.

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## Travel Expense Claims, Payments, Reimbursements and Advances

### **Travel Authorization Final Expense Report**

The Travel Authorization Final Expense Report is used to:

1. Document the authorization and cost of overnight travel within the state of Maine.
  2. Document the authorization and cost of travel out-of-state.
  3. Document the approval of travel related expenses for all travel.
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### **Completing the Travel Authorization Final Expense Report**

The traveler has the following responsibilities for completing the Travel Authorization Final Expense Report and certifying travel expenses:

1. Prepare the Travel Authorization Final Expense Report, providing the level of detail requested on the form.
  2. In the "Purpose of the expenses" section, describe the purpose or accomplishments of the trip in enough detail to document that the travel was essential to carry out the necessary work of the Efficiency Maine.
  3. For manually prepared vouchers, attach original receipts and documentation required by agency policy and this chapter. (Refer to Receipts and documentation required in support of Travel Authorization Final Expense Reports Subsection)
  4. Submit the travel voucher to the person authorized to approve travel in accordance with the requirements of this section.
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### **Reviewing and paying the Travel Authorization Final Expense Report costs**

**Division Head** - Reviews and approves the voucher.

**Finance Office** - Process the payment to the employee no later than ten (10) work days after receipt of the **properly completed** Travel Authorization Final Expense Report.

**Chief Financial Officer Must Sign for Travel of Executive Director** – The Executive Director is to be reimbursed for travel expenditures only after the Executive Director and the Chief Financial Officer have personally signed the Executive Director's Travel Authorization Final Expense Report certifying that the Executive Director's travel is in compliance with Efficiency Maine's travel policy. The Chief Financial Officer's signature does not relieve any responsibility from the Executive Director for compliance with policy requirements relating to travel reimbursement.

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## **Receipts and documentation required in support of Travel Authorization Final Expense Reports**

Original receipts for the following items are required to accompany the Travel Authorization Final Expense Report.

1. Lodging at a commercial facility. Allowable miscellaneous expenditures per the Miscellaneous Travel Expenses Section for amounts in excess of \$5.00, per item per day, plus any applicable tax.
2. Meal receipts when required.

The following documentation should be completed on the Travel Authorization Final Expense Report where applicable:

1. When lodging or meals are being reimbursed, the exact time, including **A.M. or P.M.** designation of departure and return.
2. When two or more travelers are traveling together in one motor vehicle, each traveler is to indicate this fact by identifying, on the form, the person(s) accompanying the traveler and the travel destination of each.

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### **Miscellaneous supply costs that exceed \$50**

The expense voucher is not to include expenses for supplies exceeding \$50, plus applicable tax. Such items should be purchased in advance by Efficiency Maine and taken along on the trip. Any such reimbursements should be made through a non-travel reimbursement form and process.

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### **Direct payments to vendors for travel costs**

Written approval of the Executive Director or designee must be obtained prior to authorizing direct billing of the traveler's meal and lodging expenses to the Efficiency Maine and direct payment to the vendor by the Finance Division

Any payments made in accordance with this subsection are to be supported, at a minimum, by documents consisting of:

1. A copy of the agreement (e.g., a purchase order, etc.) entered into between the vendor and the Efficiency Maine setting forth the services to be rendered by the vendor and the charges thereof;
2. A list of the Efficiency Maine employees, and other attendees for whom such goods and services were provided and the dates they were provided, and
3. A vendor billing in sufficient detail to ensure that payments are made in conformance with the written agreement between the parties.

Payments to vendors for travel expenses are not to result in a cost to Efficiency Maine in excess of what would be payable by way of reimbursement to the individuals involved.

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### **Travel expense advances**

Efficiency Maine may make a travel expense advance to defray some costs the traveler may incur while traveling on business.

1. The advance is to cover a period not to exceed 30 days.
- 2 The traveler receives the advance no more than 10 days before the start of travel.
- 3 The employee must expend the travel advance only to defray necessary reimbursable costs while performing official duties.
- 4 No travel advance shall be considered for any purpose as a loan to an employee, and any unauthorized disbursement of a travel advance is to be considered as a misappropriation of Efficiency Maine monies by the employee.

The traveler is to submit a Travel Authorization Request - Overnight or Out-of-State form to the division head for authorization prior to making travel arrangements. The division head is responsible for reviewing and either approving the request or forwarding the form to the Executive Director or designee for final authorization. Upon approval travel request, if a travel advance is requested and approved, the Finance Office is to process the document for payment and present the traveler with a check.

- 1 The traveler shall submit a fully itemized Travel Authorization Final Expense Report on or before the 15<sup>th</sup> day following the date in which a traveler has returned. The traveler must fully justify the expenditure of any portion of the advance for legally reimbursable items on behalf of the state.
- 2 The traveler shall return any portion of the travel advance not expended to the Efficiency Maine at the close of the authorized travel period. The traveler is to submit the payment with a properly completed Travel Authorization Final Expense Report and may make the payment by check, or similar instrument, payable to the agency.
- 3 If the travel advance is less than or equal to the travel expenses incurred, the traveler is to submit a properly completed Travel Authorization Final Expense Report on or before the tenth day following the authorized travel period ended. The expense voucher is to contain an itemization of expenditures and is to indicate the net amount, if any, due the traveler. The agency is to process the expense voucher in accordance with the Reviewing and paying the Travel Authorization Final Expense Report costs Subsection and reimburse the traveler for any additional amount due.
4. When a traveler defaults in accounting for or repaying an advance, the full unpaid amount shall become immediately due and payable.
5. To protect Efficiency Maine from any losses on account of travel advances made, Efficiency Maine has a prior lien against and shall withhold any and all amounts payable or to become payable by the Efficiency Maine to such officer or employee up to the amount of such travel advance and interest at a rate of ten percent per annum, until such time as repayment or justification has been made.

6. Efficiency Maine has the right to recover any unused portion and not returned travel advance through payroll deduction.
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### **Internal Revenue Service regulations affecting travel expenses and travel advances**

The federal Internal Revenue Service (IRS) has implemented tax rules affecting travel advances. The IRS requires travelers receiving travel advances to substantiate their travel expenses and to return to their employer any unspent portions of the travel advance within a reasonable time period. If the traveler does not substantiate the travel expenses or does not return any unspent portion of a travel advance within a reasonable time period, the traveler's employer is required to report the amount of the travel advance as income in Box 1 of Form W-2. This payment is subject to applicable payroll withholding taxes.

Following the lead of state travel regulations, if a traveler substantiates a travel expense in accordance with Efficiency Maine's travel policies on a Travel Authorization Final Expense Report within thirty (30) days after it is incurred for amounts greater than \$25, the traveler will have met the reasonable time period requirement. For amounts less than \$25 cumulatively, the minimum filing period is 60 days. Further, the travel expenses the traveler incurred will not be considered income. Likewise, if a traveler returns to the employer any unspent portion of a travel advance within 120 days after incurring a travel expense related to the travel advance, the traveler will have met the reasonable time period requirement. When this occurs, the unspent portion of the travel advance will not be considered income.

When a traveler fails to meet either of the timeliness criteria stated in item b above, the unsubstantiated travel expense and the unspent portion of the travel advance will be considered and reported as income and Efficiency Maine will deduct the applicable payroll withholding taxes from the traveler's next biweekly earnings to comply with this IRS regulation.

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## Travel Rates

### Reimbursement rates

This section provides lodging, subsistence, and mileage rates for trustees, directors and employees traveling on business. The Finance Office revises this section periodically based upon changes to source documents produced by three separate agencies of the federal government. Before traveling overnight in-state or traveling out of state, travelers should check with the Finance Office to verify the current per diem and maximum allowances.

Private Vehicle Mileage Rates – Efficiency Maine adopts the IRS standard mileage rate as its mileage reimbursement rate for the use of private vehicles to conduct Efficiency Maine business. For 2011, the IRS Standard Mile rate is 51 cents per mile. Any future changes either during 2011 or the years thereafter will be adopted without change to this policy. The issuance of the IRS notice is sufficient authorization for the change mileage reimbursement rates.

Per diem and maximum lodging allowance rates in the Continental USA

Efficiency Maine adopts the per diem and maximum lodging allowances set by the United State General Services Administration (GSA).

Meals and Incidental Expenses (general): <http://www.gsa.gov/portal/content/101518>

Meals and Incidental Expenses Maine Locations: <http://www.gsa.gov/portal/category/100120>

Meals and Incidental Expenses – search by destination <http://www.gsa.gov/portal/category/21287>

When searching the GSA data base by destination, if the travel location is not listed the traveler can determine the county where the destination is located by using the following address: [http://www.naco.org/Counties/Pages/NACo\\_FindACounty.aspx](http://www.naco.org/Counties/Pages/NACo_FindACounty.aspx) and then search the data base by county.

(From time to time hyperlinks may change or be replaced, if staff finds that a hyperlink is not working the Finance Division should be contacted for assistance and an update of this policy.)

Per diem and maximum lodging allowance rate for Non Continental USA And Foreign Locations

Efficiency Maine adopts the per diem and maximum lodging allowances for non-foreign overseas locations including Alaska, Hawaii, and US Territories and Possessions set by the Department of Defense. The rates are revised monthly and can be accessed at the following address:

<http://www.defensetravel.dod.mil/perdiem/perdiemrates.html>

Efficiency Maine adopts the per diem and maximum lodging allowances for foreign locations set by the Department of State. The rates are revised monthly and can be accessed at the following address:

[http://aoprals.state.gov/content.asp?content\\_id=184&menu\\_id=78](http://aoprals.state.gov/content.asp?content_id=184&menu_id=78)

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