

MAINE STATE LEGISLATURE

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DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

MEMO

To: Members of the Joint Standing Committee on Energy, Utilities and Technology

From: ^{D.B.} David E. Boulter, Executive Director

Date: February 12, 2014

Re: Submission of report by the Efficiency Maine Trust

5 MRSA §12023, sub-§2 requires quasi-independent state entities to submit a report to the Legislature by February 1st of each year. That report must include, among other things, a list of procurements exceeding \$10,000 in the preceding year for which competitive procurement was waived under policies adopted pursuant to law, a list of persons to which the entity made contributions greater than \$1,000 and the total contributed, and a description of changes to written policies and procedures required by section 12022 or to procedures used to monitor compliance.

Pursuant to 5 MRSA §12023, sub-§2 regarding distribution of the reports, I am attaching the report that was recently filed by the Efficiency Maine Trust to the committee for its review.

If you have any questions, please do not hesitate to contact me at 287-1615.

Thank you.

Attachment(s)

G:\QSARS\Revised cover letter to joint standing committees.docx

January 31, 2014

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. §12023 Reports to the Legislature

Dear 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 sole source procurements, contributions and policy adoptions or amendments.

Attached, please find:

- The report of the Trust's FY13 sole source procurements as required in 2.A;
- The report of the Trust's FY 13 contributions as required in 2.B; and
- A copy of the Trust's Procurement Policy which is the only new policy for the past year.

One policy change is with the Trust's Travel Policy that reflects the statutory language on budgeting and transparency. There are no other changes to report as required in 2.C.

Efficiency Maine adheres to the *Contract Invoice Process-Roles and Responsibilities*, the *ARRA Monitoring and Compliance Plan, Chapter 1: Contracting Process for Service Providers and Grant Recipients*, the *Travel Policy and Contribution Policy* as approved by the Efficiency Maine Trust Board of Trustees and transmitted to the Legislature last year. In the spring of 2013, the Board approved the *EMT Procurement Policy* that is for use by Staff to procure goods and services used for operation of the Trust, as distinct from goods and services used in the delivery of programs.

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 and A-133 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,

Michael D. Stoddard
Executive Director

Enc.: Efficiency Maine Trust Title 5 FY 13 Reports
EMT Procurement Policy

January 31, 2014

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

RE: 5 M.R.S.A. §12023 Reports to the Legislature

Dear President Alford:

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 sole source procurements, contributions and policy adoptions or amendments.

Attached, please find:

- The report of the Trust's FY13 sole source procurements as required in 2.A;
- The report of the Trust's FY 13 contributions as required in 2.B; and
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Efficiency Maine adheres to the *Contract Invoice Process-Roles and Responsibilities*, the *ARRA Monitoring and Compliance Plan, Chapter 1: Contracting Process for Service Providers and Grant Recipients*, the *Travel Policy* and *Contribution Policy* as approved by the Efficiency Maine Trust Board of Trustees and transmitted to the Legislature last year. In the spring of 2013, the Board approved the *EMT Procurement Policy* that is for use by Staff to procure goods and services used for operation of the Trust, as distinct from goods and services used in the delivery of programs.

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 and A-133 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,

Michael D. Stoddard
Executive Director

Enc.: Efficiency Maine Trust Title 5 FY 13 Reports
EMT Procurement Policy

Efficiency Maine Trust
Title 5 §12023 FY 13 Reports
February 1, 2014

Title 5 Chapter 379 §12023 **2.A.** Efficiency Maine Trust has prepared a list of all procurements exceeding \$10,000 for which competitive procurement was waived in Fiscal Year 2013 through:

1. Sole Source Procurement

Public Information and Outreach:

- a. Maine Today Media, Inc. Total spent for year: \$12,292
- b. Hygrade Business Group, Inc. Total spent for year: \$25,797
- c. MaineBiz. Total spent for year: \$18,212
- d. Alternative Transit Advertising Inc. Total spent for year: \$19,938
- e. Nassau Broadcasting. Total spent for year: \$17,280
- f. Maine Public Broadcasting Network. Total spent for year: \$11,232
- g. Townsquare Media Bangor LLC. Total spent for year: \$21,632
- h. Cumulus Portland. Total spent for year: \$68,880

2. Sole Source additions in FY 13 to existing sole source contracts

Personnel Services:

- a. ICMA Retirement Corp. Total spent for year: \$103,107

Administrative:

- a. Meadow Park Development Corp (office space lease): Total spent for year: \$42,112
- b. Perkins Thompson. Total spent for year: \$53,578
- c. Time Warner Cable Business Class. Total spent for year: \$13,832
- d. Verizon Wireless Services. Total spent for year: \$11,942

3. Additions in FY 13 to existing contracts originating from a competitive procurement process.

Programs (For expanded delivery of financial incentives to customers due to increased budgets):

- Applied Proactive Technologies, Inc. Total contract increase: \$3,159,321
- Energy & Resource Solutions, Inc. Total contract increase: \$479,557
- Synapse. Total contract increase: \$38,821
- Conservation Services Group (contract 0088). Total contract increase: \$3,326,553
- Opinion Dynamics. Total contract increase: \$50,000
- New England 800 Company (call center). Total contract increase: \$200,000
- The Cadmus Group. Total contract increase: \$109,766
- Direct Technologies. Total contract increase: \$264,400
- Conservation Services Group (contract 0213). Total contract increase: \$1,727,697
- Heliotropic Technologies. Total contract increase: \$10,000
- GDS Associates, Inc. Total contract increase: \$25,000

Administrative

MacdonaldPage & Co.LLC. Total contract increase: \$71,786

Title 5 Chapter 379 §12023 **2.B.** Efficiency Maine Trust has prepared a list of all persons who received contributions (as defined in §12021) greater than \$1,000 in Fiscal Year 2013:

Individual persons

None

Association Sponsorships – Integral to Program Delivery

Consortium for Energy Efficiency, Inc. Total spent for year: \$17,345

Northeast energy Efficiency Partnerships, Inc. Total spent for year: \$5,200

New Building Institute. Total spent for year: \$40,000

Association Membership – On behalf of the State of Maine

Regional Greenhouse Gas Initiative, Inc. Total spent for year: \$55,203

EMT – Procurement Policy

§ 1. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

a. Competitive procurement. "Competitive procurement" means the transmission of a written request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers that is to be replied to at a stated time.

b. Covered goods or services. "Covered goods or services" are those goods or services that are to be purchased by the Trust that are covered by and subject to this procurement policy. Covered goods and services does not include services subject to the Trust's rule regarding selection of energy efficiency program service providers or the awarding of grants to perform energy projects (95-648 CMR Chapter 1). Covered goods and services includes, but is not limited to:

- (1) Advertising,
- (2) Audio/visual services,
- (3) Audit services (i.e., financial and compliance audits)
- (4) Banking and other financial services,
- (5) Benefit products or services associated with employment,
- (6) Graphic design, layout, editing, printing, and mailing services,
- (7) Insurance,
- (8) IT (Information Technology), internet and webpage services,
- (9) Legal services,
- (10) Meeting room space and associated food, beverages and services,
- (11) Office equipment and supplies,
- (12) Office space,
- (13) Postage,
- (14) Technical support regarding energy technology, program design, and energy markets, and
- (15) Temporary staff services.

c. Quotation. A "Quotation" is a fixed price offer from a vendor that cannot be changed once accepted. Quotations may be received by post, email, fax or verbally. Verbal quotations must be noted in writing by the Trust and contain the date and name of the person offering the quotation. A contemporaneous vendor advertisement shall constitute a quotation if it is recorded in the Trust files.

d. RFP. "Request for Proposal" or "RFP" 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

e. RFQ. "Request for Qualifications" or "RFQ" 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."

EMT – Procurement Policy

- f. **The Trust.** “The Trust” means the Efficiency Maine Trust.

§ 2. Purpose

In order to secure the best value in its procurements, it is the policy of the Trust, when procuring covered goods and services, to the extent possible and consistent with the Trust’s authorizing law, to:

- a. Establish competitive procurement as the standard procurement method;
- b. Specify the conditions under which competitive procurement may be waived; and
- c. For procurements exceeding \$10,000 that were not competitively procured, require that written justification for and evidence of approvals are maintained on file for 5 years.

§ 3. Policy

It is the policy of the Trust to use competitive procurement for the procurement of covered goods and services except where a waiver is appropriate and the process for authorizing and recording a waiver is followed. Competitive procurement will be satisfied where there is an RFP or RFQ process, or, for contracts valued at \$25,000 or less, competitive procurement will be satisfied if there is an RFP, RFQ, or at least three (3) quotations are received, allowing a reasonable opportunity for a response, and documentation of resulting quotations is maintained in the files.

§ 4. Waiver.

Competitive procurement may be waived under the following conditions.

- a. **Small Purchases.** For purchases of covered goods or services valued at less than \$1,000, the requirement for competitive procurement is waived.
- b. **Goods or services not conducive to competitive bidding.** The requirement for competitive procurement may be waived where the Trust seeks covered goods or services for a particular use that are not conducive to competitive bidding whether due to unique features such as location, timing, or experience or other reasons. Examples of covered goods or services that are presumptively not conducive to competitive bidding include but are not limited to: office space or conference space for a specific location, advertising for a particular media outlet, legal services where there is a specialized expertise or understanding of Trust legal issues, and postage.

EMT – Procurement Policy

- c. Best interests of the Trust’s mission. The Trust may waive the requirement for competitive procurement when there is an emergency or the Trust finds that the required service would clearly benefit from a sole source procurement.
- d. Procedure.
 - (1) Purchases of a good or service valued at less than \$1,000 is automatically waived.
 - (2) The Executive Director may waive the requirement for competitive procurement of covered goods or services:
 - a. for contracts up to \$10,000; or
 - b. in the case of contracts for advertising, legal services, technical support or postage, for contracts up to \$25,000.
 - (3) The Board of Trustees must approve a waiver from the requirement for competitive procurement of covered goods or services for contracts valued at amounts that exceed the Executive Director’s authority to waive the requirements as described in section 4.d.(2), above.
 - (4) For all contracts valued at \$10,000 and above, decisions to waive the competitive procurement process must be recorded and maintained in the files for at least 5 years and accompanied by written justification for the waiver.

§ 5. Lobbyists

The Trust may not retain any person, other than entity staff, that is required to register as a lobbyist as defined in Title 3 of the Maine Revised Statutes, section 312-A, subsection 10.