

## REQUEST FOR INFORMATION (RFI) ON SCHOOL SOLAR ENERGY PROGRAM RULEMAKING

The Efficiency Maine Trust (the Trust) seeks preliminary comments from interested parties wishing to inform an upcoming rulemaking on the School Solar Energy Program.

### SECTION 1 – INFORMATION AND INSTRUCTIONS

#### 1.1 Designated Contact Person

Emily Cushman, Program Manager  
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#### 1.2 Key Dates

RFI Release Date – October 21, 2020  
Preliminary Comments Due – November 24, 2020

#### 1.3 How to Submit a Response

Responses should be emailed to the designated contact person (see section 1.1) by the due date listed in section 1.2. Please find suggested guidelines below:

1. Cover Letter (1 page maximum)  
Briefly describe your organization or personal background (for individuals), including relevant qualifications.
2. Response  
Address one or more of the question areas listed in Section 3.1.
3. Appendices  
Where helpful, attach relevant reports or legal decisions related to topics covered in the response. Please provide URLs where the documents may be accessed online; where online access is not possible, please provide electronic copies in the response email.

## SECTION 2 – BACKGROUND INFORMATION

### L.D. 1282

In 2019, the Maine Legislature enacted [L.D. 1282 – An Act to Establish a Green New Deal for Maine](#). This bill was passed prior to other legislation impacting Maine’s solar policy that was also passed during the same session.<sup>1</sup> Among other provisions, the bill created the School Solar Energy Program, calling on the Trust to conduct competitive solicitations for power purchase agreements (PPAs) for certain new school construction projects.

Below is the relevant amendment to the Efficiency Maine Trust Act (Title 35-A, Section 10124):

#### **§10124. School solar energy program**

The trust shall arrange power purchase agreements for solar capacity for new school construction in accordance with this section.

- 1. Competitive solicitation; bids.** After construction has begun on a school construction project approved for funding by the State Board of Education, the trust shall conduct a competitive solicitation for a power purchase agreement for solar capacity to be installed on the school property. The solicitation must specify the capacity of the solar installation to be installed, which may not exceed the estimated annual electricity consumption by the school or 100 kilowatts, whichever is less, and specify the price per kilowatt hour to be paid by the school to the bidder for the term of the power purchase agreement, which must approximate, so far as possible, the price of electricity that the school would otherwise pay to acquire the electricity from the retail market.
- 2. Bid evaluation; power purchase agreement.** The trust shall establish by rule qualifications for bidders and requirements for bids for power purchase agreements submitted under subsection 1. All bids must specify the price to the school to buy the solar installation at the end of the term of the power purchase agreement.
- 3. Award and administration.** The trust shall award a power purchase agreement to the qualified bidder that offers the lowest price for the school to purchase the solar installation at the end of the term of the power purchase agreement pursuant to subsection 2. The trust shall ensure that the power purchase agreement is commercially reasonable and commits all parties to commercially reasonable behavior. The trust shall provide the final power purchase agreement to the commission and the commission shall, in accordance with rules adopted by the commission, direct the transmission and distribution utility serving the school to administer the power purchase agreement on behalf of the school in a manner, so far as possible, consistent with section 3210-C.
- 4. Rules.** Rules adopted by the trust under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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<sup>1</sup> This legislation included [L.D. 1711 – An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine](#) and [L.D. 1494 - An Act To Reform Maine's Renewable Portfolio Standard](#).

In preparation for drafting a rule for the School Solar Energy Program in accordance with these statutory changes, the Trust seeks preliminary input and encourages stakeholders to provide responses to any or all of the following questions.

## SECTION 3 –REQUEST FOR INFORMATION

### 3.1 Question Areas

1. What legal considerations should the Trust be aware of that relate to financing, procuring, installing, maintaining solar projects on Maine schools, including, but not limited to, bidder eligibility for the federal income tax credit?
2. How should the Trust’s rule interpret the statutory provision requiring the Trust to perform a competitive solicitation for a solar PPA “after construction has begun on a school construction project...”? Are there issues the Trust should be aware of that will be impacted by this timing?
3. What information should the Trust consider in the rulemaking regarding the “term” of the PPA? Is it best to specify a term in the rule, to establish criteria to determine the term, or leave the choice of term to the Trust’s discretion?
4. The statute applies the School Solar Energy Program only to a “project approved for funding by the State Board of Education.” The Trust interprets this to mean school construction projects (usually just one or two) each year that are designated by the Maine Department of Education for inclusion in the Department’s “Approved Projects List.” Pursuant to 05-071 CMR Chapter 61, Section 1(1), school construction projects on the “Approved Projects List” are defined as “Projects from the Final Priority List that have been designated by the State Board of Education for funding.” Should the Trust provide additional clarification about how this requirement is to be applied in the rule?
5. How should the School Solar Energy Program interact with other new solar legislation passed in the spring of 2019 (relating to Maine’s net energy billing and distributed generation rules)? How might the Trust’s rule for implementing the School Solar Energy Program complement, confuse, or conflict with the new investment landscape?
6. What market forces or policies (local, state, and federal) should the Trust be aware of that might limit PPA bidder interest in the School Solar Energy Program?
7. Are there any other provisions of the statute that are unclear or raise potential concerns that might be addressed through a rulemaking?

**Note:** Where possible, please provide suggested language, consistent with the statute as it is now written, that might resolve any issues highlighted in your response.

### 3.2 Confidential Information

Respondents should be aware that information received in response to this RFI may be considered in the drafting of rule and will be available to the public. As a general rule, all written information sent to the Trust is considered a “public record” and is subject to Maine’s Freedom of Access Act. Interested parties who claim that certain information is confidential must label relevant sections or pages as “Confidential Information” and request that the Board of Trustees consider such a designation as an allowable exception to the Freedom of Access Act. There is no guarantee that the Trust Board will approve such designation. See <http://legislature.maine.gov/statutes/35-A/title35-Asec10106.html> for more information on confidential information.

### 3.3 Disclaimer

This RFI is not a Request for Proposals (RFP), Request for Qualifications (RFQ), or Program Opportunity Notice (PON). Information submitted in response to this RFI may be considered by the Trust for drafting the School Solar Energy Program rule. The Trust does not plan to issue a specific RFP, RFQ, or PON based on or related to responses to this RFI.