

**EFFICIENCY MAINE**

**CONFIDENTIAL INFORMATION MANAGEMENT SYSTEM POLICY**

**(“CIMS POLICY”)**



**April 13, 2018**

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## INTRODUCTION

This Confidential Information Management System Policy (“CIMS Policy”) document consists of this narrative and Appendix A (General Confidentiality Guidelines Memo) and Appendix B (Confidentiality, Non-Disclosure and Protective Agreement) attached hereto, and codifies the policies, procedures, and guidelines by which Efficiency Maine Trust (“Efficiency Maine”), its employees and trustees, and its contractors and consultants shall handle Confidential Information (defined below). Confidential Information generally consists of data that is: (1) acquired from utilities; (2) acquired from customers directly or developed by Efficiency Maine and its contractors using customer identifiable energy usage information in the course of designing and implementing energy efficiency programs or services; (3) competitively sensitive information; and (4) personally identifiable information or confidential energy infrastructure information acquired from federal, regional or state agencies, including the Maine Public Utilities Commission, the Maine State Housing Authority, and the Independent System Operator for New England, in connection with planning, implementing and administering Efficiency Maine programs.

## OVERVIEW

Efficiency Maine “is established for the purposes of developing, planning, coordinating and implementing energy efficiency and alternative energy resources programs.” 35-A M.R.S.A. § 10103(1). In performing its statutory mandate, Efficiency Maine requires access to and the ability to analyze and utilize various types of confidential information, including customer data from utilities, personally identifiable information, and confidential energy infrastructure information.

While Efficiency Maine must have timely access to certain customer information, the Efficiency Maine Trust Board (“Board”), the Maine Public Utilities Commission (“MPUC”) and the Maine Legislature also require that confidential information be strictly protected from improper use or disclosure by Efficiency Maine staff, trustees or contractors.

This CIMS Policy has been developed and adopted by Efficiency Maine to define Confidential Information and to provide specific procedures to safeguard this information against improper use or disclosure.

## AUTHORITY

Efficiency Maine has statutory and regulatory authority to access and utilize confidential information, subject to the requirements of applicable law for confidential treatment of such information.

First, under the Efficiency Maine Trust Act, Efficiency Maine has authority to require electric and gas utilities to furnish customer data to Efficiency Maine:

Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection to develop and implement the triennial plan or conduct the evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. 35-A MRSA § 10104 (4)(A)(1)

Second, under Chapter 815 of the MPUC Rules, a utility is authorized to disclose individual customer information including, but not limited to, a customer’s name, address, telephone number, electricity or gas usage, or payment history to a third party without the customer’s consent for certain limited purposes, including debt collection, credit reporting, usage reporting pursuant to state and federal law, and as otherwise authorized by law, MPUC rule or order. Efficiency Maine’s use of any such individual customer information is governed and restricted by confidentiality provisions of the Efficiency Maine Trust Act found in 35-A MRSA 10106(1), and any restrictions as may be contained in a specific MPUC Order and/or Protective Order.

Finally, while as an independent quasi-state agency Efficiency Maine is subject to Maine's Freedom of Access Act (1 M.R.S.A. § 401 *et seq.*), and the Efficiency Maine Trust Act expressly designates certain records as confidential for purposes of that Act, such as energy usage profile information of an identifiable customer of a utility and competitively sensitive information, as determined by the board. (35-A M.R.S.A. § 10106(1)). The confidentiality provisions of the Efficiency Maine Trust Act provide that "the director or a trustee, officer, employee, agent, other representative of the trust or other person may not knowingly divulge or disclose records designated confidential by this section." (35-A M.R.S.A. § 10106(3)). Notwithstanding any requirements or exceptions that may apply in 35-A M.R.S.A. § 10106, customer-related material provided to Efficiency Maine by a utility pursuant to a Protective Order of the MPUC shall be considered confidential and not subject to disclosure under the Maine Freedom of Access Act, and may only be disclosed in accordance with the terms of the MPUC Protective Order.

As such, though Efficiency Maine has authority to access and utilize individual utility customer information, such information must be accorded confidential treatment as directed by statute or MPUC Order.

### **APPLICABILITY**

The procedures detailed in this CIMS Policy apply to all Efficiency Maine employees, trustees, contractors, consultants, and anyone else, including those affiliated with third parties, who access Confidential Information through Efficiency Maine.

### **DEFINITION OF CONFIDENTIAL INFORMATION**

"Confidential Information" is defined to mean records or information in any form, whether written, printed or graphic matter or any mechanical or electric data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of Efficiency Maine or any of its officials or employees, and has been received or prepared in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business and that is:

1. Designated confidential by Maine statute or otherwise is within an exception to the definition of "public records" in the Maine Freedom of Access Act, 1 M.R.S.A. § 402(3);
2. Individual customer information provided by a public utility, including but not limited to, a customer's name, mailing address, e-mail address, telephone number, electricity or gas usage, or payment history, where the customer has not provided his, her or its consent to the utility's disclosure or transfer of that information to a third-party (65-407 CMR Chapter 815, Section 4);
3. Subject to an Order or Protective Order of the Maine Public Utilities Commission or state or federal court restricting the use or disclosure of designated information; or,
4. Obtained or developed by Efficiency Maine and is designated a "confidential record" under 35-A M.R.S.A. § 10106, including but not limited to: (a) a record obtained or developed by Efficiency Maine that (i) a person, including Efficiency Maine, to whom the record belongs or pertains has requested be designated confidential and that the board has determined contains information that gives the owner or a user an opportunity to obtain a business or competitive advantage over another person who does not have access to the information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; or; (ii) contains information about the energy usage profile of an identifiable customer of a transmission and distribution utility in the State or an identifiable customer of a distributor of heating fuel or other energy source; and (b) a financial statement or tax return; and the social security number, address, telephone number or e-mail address of a customer that has participated or may participate in a program of the trust; provided however, that the record or information is not Confidential Information where an exception

exists because (i) the Board determines confidentiality has been satisfactorily and effectively waived; (ii) the otherwise confidential information has already lawfully been made available to the public; or, (iii) it is impersonal, statistical or general information.

## **CONFIDENTIALITY PROCEDURES**

Confidential Information shall be protected and shall not be used or disclosed by Efficiency Maine and its employees, trustees, contractors, and consultants except in accordance with this CIMS Policy and as authorized by Maine statutes, rules, regulations and orders.

The intent of this CIMS Policy is to ensure that Confidential Information is properly protected and not disclosed to unauthorized parties who would use such information for non-Efficiency Maine energy efficiency services or in violation of Maine statutes, rules, regulations and orders.

### **The CIMS Coordinator**

The Efficiency Maine Executive Director shall designate a CIMS Coordinator. The CIMS Coordinator shall maintain the adequacy of current procedures and guidelines to assure that the obligations with respect to the handling of Confidential Information are met.

Specifically, the CIMS Coordinator is responsible for:

1. Ensuring that all Efficiency Maine employees, trustees, contractors, consultants and any other individuals who have access to the Confidential Information through Efficiency Maine have read and understand the General Confidentiality Guidelines Memo ("Memo"), attached hereto as Appendix A, prior to gaining access to the Confidential Information.
2. Ensuring that all Efficiency Maine employees and trustees have signed a copy of the Memo and that all contractors and consultants and any other individuals who have access to Confidential Information have received a copy of the Memo and that all contractors and consultants have signed the Confidentiality, Non-Disclosure and Protective Agreement ("Protective Agreement") attached hereto as Appendix B. The CIMS Coordinator shall ensure that signed copies of the Memo and Protective Agreement are delivered and on file as appropriate prior to the granting of access to the Confidential Information.
3. Determining whether or not a party requesting access to Confidential Information is actually providing Efficiency Maine services and will use such Confidential Information strictly for Efficiency Maine purposes, and in accordance with Maine statutes, rules, regulations and orders.
4. Determining whether or not data or any particular item of information is or is not Confidential Information as defined above.
5. Conducting investigations into any alleged breach, compromise, incidents and/or problems regarding Confidential Information and reporting the results of such investigations to the Executive Director of Efficiency Maine.
6. If the results of such investigations determine that Confidential Information was actually released improperly, immediately notifying the Executive Director and supervisor of the Efficiency Maine employee responsible for the improper release, or the Executive Director if a contractor or consultant is responsible for the improper release. All prudent steps will be taken to ensure that no further Confidential Information is improperly disclosed. All prudent steps will be taken to retrieve such Confidential Information from the unauthorized receiving party.

7. Ensuring that all new Efficiency Maine employees, trustees, contractors and consultants are provided with adequate training such that they fully understand the CIMS Policy procedures and guidelines.
8. Revising or modifying CIMS Policy procedures as deemed necessary to ensure the continued safeguarding of Confidential Information. The CIMS Coordinator shall gain input of the Efficiency Maine senior managers prior to implementing any CIMS Policy modifications. The CIMS Coordinator will inform Efficiency Maine's Executive Director of any proposed changes and request approval, and, upon such approval, the CIMS Policy and Appendix A and Appendix B will be amended, as appropriate.
9. Providing Efficiency Maine employees, trustees, contractors and consultants with training on any CIMS Policy modifications and as-needed refresher training regarding the operation of this CIMS Policy.
10. Ensuring the return of all documents or other materials constituting Confidential Information, from departing employees or trustees and from consultants and contractors upon the completion of services, or at any other time that Efficiency Maine requires the return of Confidential Information and materials.

#### **Efficiency Maine Employees, Trustees, Contractors and Consultants**

1. All Efficiency Maine employees, trustees, contractors and consultants shall, prior to receiving any Confidential Information, be provided with the "General Confidentiality Guidelines Memo" attached hereto as Appendix A. Contractors and consultants shall inform their personnel of the contents of the Memo and shall ensure that their personnel (including subcontractors) are aware of and understand the restrictions and limitations on the use of Confidential Information. Efficiency Maine employees and trustees shall sign a copy of the Appendix A Memo and shall provide it to the CIMS Coordinator. Contractors and consultants shall sign the Protective Agreement attached hereto as Appendix B and deliver it to the CIMS Coordinator prior to gaining access to Confidential Information. Contractors and consultants shall ensure all personnel (including subcontractors) with access to Confidential Information abide by the terms, conditions, and restrictions contained in the Memo and shall require that all such personnel acknowledge such understanding in writing in form and substance similar to the Protective Agreement. Contractors and consultants shall provide copies of all such written acknowledgements to the CIMS Coordinator upon request. The Memo and the Protective Agreement state that persons or entities with access to Confidential Information shall not transfer, access, use, or disclose Confidential Information to any other person, except in accordance with CIMS Policy procedures and Maine statutes, rules, regulations and orders, and only for the purposes of implementing Efficiency Maine energy efficiency programs or services.
2. Efficiency Maine employees, trustees, contractors and consultants shall deny all requests for Confidential Information from any and all parties who have not executed a Protective Agreement or other form of acceptable confidentiality and non-disclosure acknowledgement or whose intent is to use such Confidential Information for non-Efficiency Maine purposes. If there is any question as to whether or not the requesting party will be using the Confidential Information to provide Efficiency Maine energy efficiency programs or services, then this request shall be referred to the CIMS Coordinator. If there is any question as to whether or not the information being requested is Confidential Information as defined above, such requests shall also be referred to the CIMS Coordinator.
3. Efficiency Maine employees, trustees, contractors, consultants and other individuals shall verify with the CIMS Coordinator that any Efficiency Maine employee, trustee, contractor or other individual that is to receive Confidential Information has received a copy of the "General Confidentiality Guidelines Memo" and has signed it or the Protective Agreement prior to releasing any Confidential Information to such a person.
4. Efficiency Maine employees, trustees, contractors or consultants shall not use any Confidential Information in providing any non-Efficiency Maine services.

5. Efficiency Maine employees will ensure that any visitors to Efficiency Maine's offices are not allowed access to any Confidential Information unless they are specifically authorized in accordance with the CIMS Policy procedures.
6. All paper copies of Confidential Information that are being disposed of shall first be shredded.
7. Contractors and consultants may not publish, post or print promotional materials identifying a specific customer's name, street address, email address or phone number or energy usage profile. Efficiency Maine may only do so with prior written permission from the customer. Such materials can only be used for Efficiency Maine education, marketing or promotional purposes.
8. All program managers of Efficiency Maine shall receive a copy of this CIMS Policy document and will read and fully understand the procedures outlined herein.
9. Efficiency Maine employees and subcontractor staff provided with an Efficiency Maine Computer Network login to access Efficiency Maine's computer network shall adhere to the password requirements established by the CIMS Coordinator and communicated by the Network Administrator to authorized Efficiency Maine computer network users.
10. Portable electronic devices, laptops, notebooks, personal data assistants, tablet computers, smart phones, and other transportable computer-related equipment containing Confidential Information, must not be left unsecured at any time. Confidential Information may not be transferred to or stored on any computer or electronic device used only for personal (non-work) activities. The transfer of confidential information to non-work computers or electronic devices is prohibited.
11. The CIMS Coordinator must be notified immediately when:
  - Any materials or equipment containing or suspected of containing Confidential Information is lost, disclosed to unauthorized parties, or suspected of being lost or disclosed to unauthorized parties;
  - Unauthorized use of Efficiency Maine's information systems has taken place, or is suspected of taking place;
  - Network logins and or passwords are lost, stolen, or disclosed, or are suspected of being lost, stolen, or disclosed; or,
  - There are any other problems or concerns regarding Efficiency Maine's CIMS Policy.
12. Any disclosure or unauthorized use of Confidential Information by an Efficiency Maine employee in violation of this CIMS Policy is grounds for discipline up to and including immediate termination. Any disclosure or unauthorized use of Confidential Information in violation of this CIMS Policy or of the Protective Agreement by an Efficiency Maine contractor or consultant, or any personnel (including subcontractors) for whom they are responsible, is grounds for immediate termination of that contractor or consultant's contract with Efficiency Maine.

Confidential Information (including all copies in all forms) shall be returned to Efficiency Maine or destroyed as directed by the CIMS Coordinator upon the completion of services, conclusion of service as an employee or trustee, or as otherwise directed by Efficiency Maine. If the CIMS Coordinator directs that Confidential Information be destroyed, the employee, trustee, contractor or consultant shall certify in writing that all such Confidential Information has been destroyed. Notwithstanding the foregoing, a contractor or consultant may retain copies of Confidential Information:

- (a) As required to comply with the any applicable federal, state or local law, regulation or regulatory authority to which it is subject; or,
- (b) That is maintained as archive copies in a disaster recovery and/or information technology backup system, provided that such copies are adequately protected and will be destroyed on the normal expiration and destruction cycle for the archive or backup files.

In all cases, Confidential Information retained by a contractor or consultant as permitted herein shall remain confidential, shall be protected by contractor or consultant from impermissible use or disclosure, and shall be subject to all applicable statutes, regulations and orders, this CIMS Policy, and the Protective Agreement, which shall survive expiration or termination of the services.

### **Efficiency Maine's Network Administrator**

The Efficiency Maine Network Administrator for any computer network on which Confidential Information is stored or accessible is expected to utilize the available Efficiency Maine computer network security services to ensure that access is not gained to Efficiency Maine's computer network by any unauthorized parties.

The Network Administrator is responsible for:

1. Conducting initial setup and maintenance of users' access privileges;
2. Assigning a unique User-ID to each authorized user after proper documentation has been completed;
3. Granting requests for user access privileges only by a clear chain of authority delegation. Written approval must be obtained from an appropriate Efficiency Maine manager before the Network Administrator may grant or modify network privileges;
4. Restricting system and network privileges for all users based on the need-to-know and authorized by an appropriate Efficiency Maine manager;
5. Ensuring that individuals who are not Efficiency Maine employees are not granted access or have their access modified without the advance written approval from an appropriate Efficiency Maine manager;
6. Monitoring all computer security related events. The Network Administrator shall follow up on any actual or suspected security violations and notify the CIMS Coordinator of all such incidents;
7. Ensuring that all Efficiency Maine data storage devices that contain Confidential Information, such as hard drives on the network server, shall not be easily removable. The servers containing such data storage devices shall be in computer cabinets that are locked and the rooms containing the servers are also locked during non-business hours;
8. Ensuring that all computers permanently or intermittently connected to Efficiency Maine networks must have login and password access controls;
9. Devising and implementing a change-password schedule, notifying all users of the schedule, and performing follow-up to ensure that the schedule has been adhered to. All users shall, at a minimum, be required to change their passwords twice per calendar year;
10. Whenever it is known that system / network security has been compromised, or there is substantial reason to believe that it may have been compromised, requiring all users to change their passwords as soon as possible. This action will be in addition to the normal, scheduled password changes;
11. Deploying an Internet firewall to ensure that unauthorized individuals cannot access information stored within the computer systems from outside of Efficiency Maine's computer network;
12. Ensuring that Efficiency Maine's network infrastructure includes sufficient automated tools to assist the administrator in verifying the systems' security status;
13. Implementing systems to encrypt all remote access to Efficiency Maine Confidential Information over the



Internet; and,

14. Storing any removable media used to back up the electronic data and that contains copies of Confidential Information in a physically secure (locked) location.

This Confidential Information Management System Policy ("CIMS Policy") is the policy of Efficiency Maine as of April 13, 2018.



## **APPENDIX A: GENERAL CONFIDENTIALITY GUIDELINES MEMO AND ACKNOWLEDGEMENT**

To: Employees, Trustees, Contractors and other Individuals handling Confidential Information  
From: CIMS Coordinator  
Date: April 13, 2018  
Re: Efficiency Maine Confidential Information Management System

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Efficiency Maine Trust ("Efficiency Maine") employees, trustees, contractors, consultants and other individuals will, during their services to Efficiency Maine, have access to and receive data from customers, utilities and other sources and may develop reports and other materials using such data. Some of this data is Confidential Information as defined below. Efficiency Maine has adopted a Confidential Information Management System Policy ("CIMS Policy") to ensure that there are procedures in place for the proper handling of such Confidential Information.

The underlying principle for all Efficiency Maine Confidential Information is that it is to be used by authorized Efficiency Maine employees, trustees, contractors, consultants and other individuals only for the purposes of implementing Efficiency Maine energy efficiency programs and services and only in conformity with Maine statutes, rules, regulations and orders, including any relevant Order or Protective Order of the Maine Public Utilities Commission. It is the policy of Efficiency Maine that no Confidential Information should be provided to any Efficiency Maine employee, trustee, contractor, or other individuals unless authorized and for a permitted purpose, and that no Confidential Information may be disclosed by any Efficiency Maine employee, trustee, consultant or contractor to the public or to any third party except as expressly authorized.

### **General Confidentiality Guidelines**

This General Confidentiality Guidelines Memo ("Memo") is a part of the CIMS Policy and provides procedures and guidelines for the handling of Efficiency Maine Confidential Information by Efficiency Maine employees, trustees, contractors, consultants and other individuals. All Efficiency Maine employees and trustees and all Efficiency Maine contractors and consultants must receive and review a copy of this Memo before being granted access to any Confidential Information. More detailed information on the Efficiency Maine policies and procedures regarding the use and disclosure of Confidential Information may be found in the CIMS Policy.

### **The CIMS Coordinator**

Efficiency Maine has established the role of "CIMS Coordinator" to maintain the integrity of current procedures and guidelines to assure that the obligations with respect to the handling of Confidential Information are met. Any question or concern regarding the handling or use of any Confidential Information, the interpretation of this Memo or any CIMS Policy provision, or any report or other information regarding the suspected unauthorized use or disclosure of Confidential Information should be directed to the CIMS Coordinator.

### **Confidential Information**

"Confidential Information" is defined to mean records or information in any form, whether written, printed or graphic matter or any mechanical or electric data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in

the possession or custody of Efficiency Maine or any of its officials or employees, and has been received or prepared in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business and that is:

- (1) Designated confidential by Maine statute or otherwise is within an exception to the definition of “public records” in the Maine Freedom of Access Act, 1 M.R.S.A. § 402(3);
- (2) Individual customer information provided by a public utility, including but not limited to, a customer’s name, mailing address, e-mail address, telephone number, electricity or gas usage, or payment history, where the customer has not provided his, her or its consent to the utility’s disclosure or transfer of that information to a third-party (65-407 CMR Chapter 815, Section 4);
- (3) Subject to an Order or Protective Order of the Maine Public Utilities Commission or state or federal court restricting the use or disclosure of designated information; or
- (4) Obtained or developed by Efficiency Maine and is designated a “confidential record” under 35-A M.R.S.A. §10106 (including but not limited to: (a) a record obtained or developed by Efficiency Maine that (i) a person, including Efficiency Maine, to whom the record belongs or pertains has requested be designated confidential and that the board has determined contains information that gives the owner or a user an opportunity to obtain a business or competitive advantage over another person who does not have access to the information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; or; (ii) contains information about the energy usage profile of an identifiable customer of a transmission and distribution utility in the State or an identifiable customer of a distributor of heating fuel or other energy source; and (b) a financial statement or tax return; and the social security number, address, telephone number or e-mail address of a customer that has participated or may participate in a program of the trust; provided however, that the record or information is not Confidential Information where an exception exists because (a) the Board determines confidentiality has been satisfactorily and effectively waived; (b) the otherwise confidential information has already lawfully been made available to the public; or (c) it is impersonal, statistical or general information.

#### **Procedures for Efficiency Maine Employees, Trustees, Contractors and Consultants**

1. All Efficiency Maine employees, trustees, contractors, consultants and any other individuals shall, prior to receiving any Confidential Information, be provided with this Memo. Efficiency Maine employees and trustees shall sign a copy of this Memo and shall provide it to the CIMS Coordinator. Contractors and consultants shall sign the Protective Agreement and deliver it to the CIMS Coordinator, prior to gaining access to Confidential Information. Contractors and consultants shall inform their personnel of the contents of the Memo and shall ensure that their personnel (including subcontractors) are aware of and understand the restrictions and limitations on the use of Confidential Information. Contractor’s and consultants shall ensure all personnel (including subcontractors) with access to Confidential Information abide by the terms, conditions, and restrictions contained in the Memo and shall require that all such personnel acknowledge such understanding in writing in form and substance similar to the Protective Agreement. Contractors and consultants shall provide copies of all such written acknowledgements to the CIMS Coordinator upon request.
2. Efficiency Maine employees, trustees, contractors and consultants shall deny all requests for Confidential Information from any and all parties who have not executed a Protective Agreement or other form of acceptable confidentiality and non-disclosure acknowledgement or whose intent is to use such confidential information for non-Efficiency Maine purposes. If there is any question as to whether or not the requesting party will be using the Confidential Information to provide Efficiency Maine energy efficiency programs or services, then this request shall be referred to the CIMS

Coordinator. If there is any question as to whether or not the information being requested is Confidential Information as defined above, such requests shall also be referred to the CIMS Coordinator.

3. Efficiency Maine employees, trustees, contractors and consultants shall verify with the CIMS Coordinator that any Efficiency Maine employee, trustee, contractor, consultant or other individual that is to receive Confidential Information has received a copy of the General Confidentiality Guidelines Memo and has signed it or the Protective Agreement prior to releasing any Confidential Information to such a person.
4. Efficiency Maine employees, trustees, contractors or consultants shall not use any Confidential Information in providing any non-Efficiency Maine services.
5. Efficiency Maine employees will ensure that any visitors to Efficiency Maine's offices are not allowed access to any Confidential Information unless they are specifically authorized in accordance with the CIMS procedures.
6. All paper copies of Confidential Information that are being disposed of shall first be shredded.
7. Contractors and consultants may not publish, post or print promotional materials identifying a specific customer, their location or identifiable Efficiency Maine project information. Efficiency Maine may only do so with prior written permission from the customer. Such materials can only be used for Efficiency Maine marketing or promotional purposes.
8. Efficiency Maine employees, trustees, contractors or consultants provided with an Efficiency Maine Computer Network login to access Efficiency Maine's computer network shall adhere to the password requirements established by the CIMS Coordinator and communicated by the Network Administrator to authorized Efficiency Maine computer network users.
9. Portable computer devices, laptop, desktop or notebook computers, personal data assistants, thumb-drives, smart phones, and other transportable computer-related equipment and related devices containing Confidential Information must not be left unsecured at any time. Confidential Information may not be transferred to or stored on any computer or electronic device used only for personal (non-work) activities. The transfer of confidential information to non-work computers or electronic devices is prohibited.
10. The CIMS Coordinator must be notified immediately when:
  - Any materials or equipment containing or suspected of containing Confidential Information is lost, disclosed to unauthorized parties, or suspected of being lost or disclosed to unauthorized parties;
  - Unauthorized use of Efficiency Maine's information systems has taken place, or is suspected of taking place;
  - Network logins and or passwords are lost, stolen, or disclosed, or are suspected of being lost, stolen, or disclosed; and,
  - There are any other problems or concerns regarding Efficiency Maine's Confidential Information Management Systems.
11. Any disclosure or unauthorized use of Confidential Information by an Efficiency Maine employee in violation of the CIMS Policy is grounds for discipline up to and including immediate termination. Any disclosure or unauthorized use of Confidential Information in violation of the CIMS Policy or of the Protective Agreement by an Efficiency Maine contractor or consultant is grounds for immediate termination of that contractor's or consultant's contract with Efficiency Maine.

12. By signing this Memo, Efficiency Maine employees hereby agree that they shall not transfer, access, use, or disclose to any third party, Confidential Information except in accordance with these CIMS Policy procedures and Maine statutes, rules, regulations and orders, including any relevant MPUC Order or Protective Order and only for the purposes of implementing Efficiency Maine energy efficiency programs or services.
13. By receiving any Confidential Information and executing a Protective Agreement, Efficiency Maine contractors and consultants hereby agree that they shall not, and they shall cause their personnel (including subcontractors) to not, transfer, access, use, or disclose to any third party, Confidential Information except in accordance with these CIMS Policy procedures and Maine statutes, rules, regulations and orders, including any relevant MPUC Order or Protective Order and only for the purposes of implementing Efficiency Maine energy efficiency programs or services.

If further clarification or additional assistance is needed please consult the CIMS plan document located on Efficiency Maine's Network at S/3-Programs/3-10 CIMS Documents or contact Efficiency Maine's CIMS Coordinator.

Please sign on the line below, indicating that you have read and understand this Memo.

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Signature

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Printed Name

---

Efficiency Maine Position

---

Date



## APPENDIX B: CONFIDENTIALITY, NON-DISCLOSURE AND PROTECTIVE AGREEMENT

This CONFIDENTIALITY, NON-DISCLOSURE AND PROTECTIVE AGREEMENT ("Protective Agreement") is made by and between the Efficiency Maine Trust, an independent quasi-state agency of the State of Maine ("Efficiency Maine") and [REDACTED] (the "Recipient"), each individually a "Party" and collectively, the "Parties," as of [REDACTED], 20 [REDACTED] (the "Effective Date").

WHEREAS, in connection with the provision or supply of work or services to or for the benefit of Efficiency Maine (the "Services"), the Recipient will have access to, review, or receive, and may compile or develop, certain business, personal, financial, technical, and other Confidential Information (as defined below) concerning the business and affairs of Efficiency Maine and of Efficiency Maine's customers, grantees, borrowers, program service recipients, and other electric and natural gas utility customers in the State of Maine (collectively, the "Customers"); and

WHEREAS, Efficiency Maine wishes to ensure the protection of Confidential Information and restrict the Recipient's use of Confidential Information to purposes directly connected with and necessary for the performance of the Services; and

WHEREAS, the Recipient recognizes the need to restrict disclosure and use of Confidential Information and to abide by the terms and conditions of the Efficiency Maine General Confidentiality Guidelines Memo appended as Appendix A to the Efficiency Maine Confidential Information Management Policy ("CIMS Policy").

NOW, THEREFORE, in consideration of the above premises, as a condition of Recipient's contract or agreement with Efficiency Maine, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

### 1. Confidential Information

"Confidential Information" is defined to mean records or information in any form, whether written, printed or graphic matter or any mechanical, digital or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession, custody or control of Efficiency Maine or any of its officials, employees or agents, and has been received or prepared in connection with the transaction of Efficiency Maine business or contains information relating to the transaction of public or governmental business and that is:

- (1) Designated confidential by Maine statute or otherwise is within an exception to the definition of "public records" in the Maine Freedom of Access Act, 1 M.R.S.A. § 402(3);
- (2) Individual customer information provided by a public utility, including but not limited to, a customer's name, mailing address, e-mail address, telephone number, electricity or gas usage, or payment history, where the customer has not provided his, her or its consent to the utility's disclosure or transfer of that information to a third-party (65-407 CMR Chapter 815, Section 4);
- (3) Subject to an Order or Protective Order of the Maine Public Utilities Commission or state or federal court restricting the use or disclosure of designated information; or
- (4) Obtained or developed by Efficiency Maine and is designated a "confidential record" under 35-A M.R.S.A. §10106 (including but not limited to: (a) a record obtained or developed by Efficiency Maine that (i) a person, including Efficiency Maine, to whom the record belongs or pertains has requested be designated confidential and that the board has determined contains information that gives the owner or a user an opportunity to obtain a business or competitive advantage over another person who does not have access to the

information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; or; (ii) contains information about the energy usage profile of an identifiable customer of a transmission and distribution utility in the State or an identifiable customer of a distributor of heating fuel or other energy source; and (b) a financial statement or tax return; and the social security number, address, telephone number or e-mail address of a customer that has participated or may participate in a program of the trust; provided however, that the record or information is not Confidential Information where an exception exists because (a) the Board determines confidentiality has been satisfactorily and effectively waived; (b) the otherwise confidential information has already lawfully been made available to the public; or (c) it is impersonal, statistical or general information.

2. Non-Disclosure. In consideration for the access to Confidential Information and the ability to perform the Services on behalf of Efficiency Maine, the Recipient shall hold all Confidential Information in trust for Efficiency Maine and in strictest confidence in accordance with the provisions of this Protective Agreement. The Recipient shall not disclose, in any manner communicate or enable, authorize, permit or acquiesce in the disclosure or communication of Confidential Information to any person or entity, including any officer, director, employee, personnel, consultant, subcontractor, agent or representative of the Recipient, except:

- (a) solely to the extent necessary to enable the Recipient to properly perform the Services and to discharge its obligations to Efficiency Maine, and then only where all of its Disclosees (as defined below) are informed of the confidential nature of the Confidential Information and are bound by provisions of confidentiality and non-disclosure to the same effect as those contained in this Protective Agreement; or
- (b) with the prior written authorization of Efficiency Maine, which authorization may be withheld in Efficiency Maine's discretion.

Recipient agrees that neither it nor its officers, directors, employees, consultants, subcontractors, agents, representatives or advisers shall transfer, access, use, or disclose to any third party any Confidential Information except in accordance with the terms of this Protective Agreement, the Efficiency Maine Confidential Information Management System Policy ("CIMS Policy") adopted by Efficiency Maine to which this Protective Agreement is Appendix B, and applicable Maine statutes, rules, regulations and orders, including any Maine Public Utilities Commission Order or Protective Order relevant to the Confidential Information. The Recipient shall notify Efficiency Maine immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Protective Agreement by the Recipient or its officers, directors, employees, consultants, subcontractors, agents, representatives or advisers, and will cooperate with Efficiency Maine in every reasonable way to help regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.

3. Use. The Recipient may use Confidential Information only as strictly necessary for the performance of the Services and shall ensure that any of its Disclosees limit their use of the Confidential Information as strictly necessary for the performance of the Services. The Recipient may not, and shall ensure that its personnel (including subcontractors) do not, use any Confidential Information for any reason or purpose other than as authorized in this Protective Agreement.

4. Control Over Disclosees. Each person or entity to whom a Recipient discloses Confidential Information is referred to in this Agreement as a "Disclosee" of the Recipient. The Recipient shall implement, monitor, control and enforce all measures required or advisable to cause all of its Disclosees to fully observe and comply with each of the covenants and agreements contained herein. The Recipient shall cause each of its Disclosees to enter into a written confidentiality and non-disclosure agreement on terms to the same effect as those contained in this Protective Agreement confirming each such Disclosees's obligations to protect the Confidential Information from unauthorized use or disclosure, and Recipient shall provide copies of all such written acknowledgements to Efficiency Maine upon request. The Recipient will be liable for any breach of this Agreement by its Disclosees.

4. **Ownership.** No ownership or right, including any intellectual property right, is granted, licensed, or transferred to Recipient by execution of this Protective Agreement or by the disclosure of any Confidential Information to Recipient. As between the Recipient and Efficiency Maine, Confidential Information, including derivative works prepared by the Recipient, remains the sole property of Efficiency Maine or Customer, and the Recipient must keep the same at all times in its custody and subject to the Recipient's control under the terms of this Protective Agreement until returned to Efficiency Maine or Customer pursuant to this Protective Agreement.

5. **Compelled Disclosure.** If the Recipient, or any of the Recipient's Disclosees is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, the Recipient will provide Efficiency Maine with prompt notice of such request(s) so Efficiency Maine or the Customer may seek an appropriate protective order or other appropriate remedy and/or waive compliance with the confidentiality provisions of this Protective Agreement. In the event that such protective order or other remedy is not obtained, the Recipient or the Recipient's Disclosee may furnish that portion (and only that portion) of the Confidential Information which, in the written opinion of the Recipient's counsel, the Recipient is legally compelled to disclose and must exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

6. **Return of Confidential Information.** Promptly following the written request of Efficiency Maine, and immediately upon termination of the Services, the Recipient will (i) deliver to Efficiency Maine all documents or other materials furnished by Efficiency Maine or Customer to the Recipient constituting Confidential Information, including derivative works, which shall include notes or materials which incorporate or include Confidential Information, together with all copies thereof, or (ii) at the option of Efficiency Maine, destroy all such Confidential Information in circumstances and in a manner approved of by Efficiency Maine, and, if requested by Efficiency Maine, under the supervision of Efficiency Maine. If requested by Efficiency Maine, a senior officer of the Recipient will promptly certify in writing to Efficiency Maine that all Confidential Information has been returned or destroyed in accordance with the terms of this Protective Agreement.

Confidential Information (including all copies in all forms) shall be returned to Efficiency Maine or destroyed as directed by the CIMS Coordinator upon the completion of services, conclusion of service as an employee or trustee, or as otherwise directed by Efficiency Maine. If the CIMS Coordinator directs that Confidential Information be destroyed, the employee, trustee, contractor or consultant shall certify in writing that all such Confidential Information has been destroyed. Notwithstanding the foregoing, a contractor or consultant may retain copies of Confidential Information:

- (a) as required to comply with the any applicable federal, state or local law, regulation or regulatory authority to which it is subject; or
- (b) that is maintained as archive copies in a disaster recovery and/or information technology backup system, provided that such copies are adequately protected and will be destroyed on the normal expiration and destruction cycle for the archive or backup files.

In all cases, Confidential Information retained by a contractor or consultant as permitted herein shall remain confidential, shall be protected by contractor or consultant from impermissible use or disclosure, and shall be subject to all applicable statutes, regulations and orders, this CIMS Policy, and the Protective Agreement, which shall survive expiration or termination of the services.

7. **Audit Rights.** Efficiency Maine shall have the right, upon reasonable notice to the Recipient, to audit, review and inspect the Recipient's records and procedures for compliance with this Protective Agreement.

8. **Remedies.** In the event of any breach or threatened breach of this Protective Agreement, Efficiency Maine, in addition to any other remedies at law or in equity it may have, will be entitled to seek, without the requirement of posting a bond or other security, equitable relief, including injunctive relief and specific performance. Moreover, in addition to any other remedies at law or in equity Efficiency Maine may have, as stated in the CIMS Policy, any disclosure or unauthorized use of Confidential Information in violation of the Protective Agreement or the CIMS Policy by the Recipient is grounds for immediate termination of the Recipient's contract or agreement with Efficiency Maine.

9. **Governing Law.** This Protective Agreement will be governed by and interpreted in accordance with the laws of the State of Maine without regard to its conflict of law principles.



10. Amendments. This Protective Agreement may not be modified, amended, rescinded or canceled in whole or in part, except by written instrument signed by the Parties hereto which makes specific reference to this Agreement and which specifies that this Protective Agreement is being modified, amended, rescinded or canceled.

11. Severability. If any provision of this Protective Agreement is declared invalid or illegal for any reason whatsoever, then, notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement will remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein.

12. Waiver. No failure on the part of Efficiency Maine to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single waiver or partial exercise of any right or remedy hereunder preclude any other or a future exercise thereof or the exercise of any other right or remedy granted hereby, or by any related document, or by law.

13. Entire Agreement; Acknowledgement; No Assignment. This Protective Agreement and the General Confidentiality Guidelines Memo attached as Appendix A to the CIMS Policy contain the entire agreement and understanding between the Parties hereto relating to the subject matter hereof and supersede all other prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. The Recipient, by executing this Protective Agreement, acknowledges that the Recipient has received a copy of the General Confidentiality Guidelines Memo attached as Appendix A to the CIMS Policy and has reviewed its contents and understands its obligations thereunder. This Protective Agreement is intended to supplement and be read in harmony with any other confidentiality and non-disclosure provision contained in any Service Agreement between the Parties and in the General Confidentiality Guidelines Memo. This Protective Agreement may not be assigned by Recipient without the prior express written consent of Efficiency Maine, which consent may be withheld in its reasonable discretion.

IN WITNESS WHEREOF, the Parties have executed this Protective Agreement through their duly authorized representatives effective as of the Effective Date set forth above.

**Service Provider:** \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Efficiency Maine Trust**

By: \_\_\_\_\_

Name: Joy Adamson

Title: Grants Administrator

Date: \_\_\_\_\_