

Memorandum

To: Trust Board

From: Michael Stoddard, Executive Director

Re: Proposal to Authorize the Executive Director to Amend the Memorandum of Agreement to Modify Scope and Budget of the “Lead by Example” Initiative

Date: 8/23/2023

Summary

Staff seeks Board authorization for the Executive Director to amend an existing Memorandum of Agreement for the use of certain VW Settlement funds which would re-allocate a portion of the budget the Department of Administrative and Financial Services (DAFS) so that DAFS may directly develop and help pay for certain energy projects it seeks to pursue in State-owned buildings.

Background

On December 29, 2020, Staff of the Efficiency Maine Trust (EMT) entered into a Memorandum of Agreement (MOA) with the Office of the Attorney General (OAG) and the Department of Administration and Financial Services (DAFS).

The arrangement directed slightly less than \$3.7 million from the OAG’s settlement with Volkswagen (VW) for certain violations of state environmental and consumer protection laws to EMT. In return, EMT agreed to use the funds for an initiative to promote energy upgrades in State-owned and State-leased properties. The initiative is one element of the Governor’s broader initiative to show that the State government in Maine is “leading by example” (LBE) in using energy efficiently and shifting to cleaner energy sources in its State properties.

The MOA’s scope of work called upon EMT to use the funds “for environmental mitigation activities related to the on-site production and/or consumption of energy by State properties, and which the Trust will use to administer an initiative promoting the strategic purchase or lease, and installation and/or operation, of cost-effective, clean energy measures.” (MOA, Section III (1), p. 4).

Cost-effectiveness, a core criteria guiding eligibility for projects using these funds, is defined differently in this MOA than in EMT’s traditional program rules. Under the terms of the MOA, a project is considered cost-effective if it can produce “a savings-to-investment ratio (SIR) greater than 1.0 ... when comparing the net present value of the project’s financial savings to its financial costs (which costs shall include any financial incentive from the Trust) when calculated over the useful life of the measures to be installed on the project.” (*Id.*, Section III(3)(c), p. 4).

In 2021, EMT Staff collaborated with the Bureau of General Services (BGS), a bureau within DAFS, to develop an initiative tailored to the procurement process for the State of Maine. EMT launched the LBE initiative Program Opportunity Notice (PON) through its Commercial and Industrial (C&I) Custom Program on June 1, 2022.

The resulting design of EMT's LBE Initiative is that the initiative provides financial and technical support for energy efficiency investments to help accelerate the transition to net zero carbon in state government buildings. The initiative has been focused on beneficial electrification, targeting the replacement of existing oil- and propane-based heating systems with electric heat pump systems. The initiative provides a cash incentive for 60% of the project costs (higher than the standard program incentives EMT offers for other commercial buildings) up to \$1,000,000. The initiative will also fund 50% of the cost of technical assistance (TA) up to \$20,000, offsetting the costs of architectural and engineering (A&E) firms to develop design and bid documents.

Activity To Date

EMT has engaged with 13 different state agencies representing inquiries across more than 36 buildings. Based on a preliminary screening to identify whether projects would meet the required savings-to-investment ratio, eight of these agencies have thus far been invited to apply for the LBE Initiative.

To date, EMT has incentivized equipment upgrades at three facilities and approved TA funding for projects at six others. The Maine Department of Transportation (MDOT) was awarded a total of \$54,732 to retrofit the Vinalhaven and Lincolnville ferry terminals as well as the I95 Southbound visitor center in Hampden from oil-based heating systems to heat pump systems. These MDOT projects were recently completed. With respect to TA incentives, EMT awarded four agencies a total of \$53,748 to develop heat pump system designs and bid solicitation documents. Barring unexpected challenges, the TA awards should lead to project awards in the coming months. At the suggestion of BGS, EMT has also contracted for \$250,000 in funds from this MOA for services of a CollinsCEA, an engineering consultant, to conduct a detailed analysis of the energy use of State buildings and develop a tracking database containing the results. Additionally, EMT has incurred expenses for DNV, a sub-contractor to EMT, to analyze the savings-to-investment ratios of projects under consideration.

The full amount of the funds was initially transferred to EMT in 2021. As summarized in the table below, \$391,260 of that amount has been expended to date. Approximately \$143,120 for CollinsCEA and \$225,000 for DNV are encumbered under contracts for services to conduct engineering and economic analysis of projects under consideration or under development, and an additional \$1.1 million in incentives is what the Staff estimates will be needed to cover the costs of projects that are in various stages of review and development and have good prospects for completion. **This leaves a balance of \$1,807,777.**

LBE Budget Tracking	
Total VW Settlement Funds	\$3,667,157
Spent to date (admin, delivery, incentives and CollinsCEA)	\$391,260
Remaining encumbered to CollinsCEA	\$143,120
Encumbered to DNV for FY24 TA awards & analysis	\$225,000
Funding needed for projects in progress	\$1,100,000
Total committed, encumbered and additional funding needed	\$1,859,380
Remaining funds	\$1,807,777

Discussion and Recommendation

The pace of committing and expending the funds through this initiative has been slower than Staff expected. There is no one single reason why; it has been a combination of factors including a typical lag time of 6-12 months for agencies to go through the State procurement process to get engineering services to design the bid specifications for an HVAC system, and then more time to put a full RFP on the street to solicit and review bids for the new HVAC system. While there are now many solid project leads in the pipeline, that pipeline is moving slowly, and there is still another \$1.8 million that has no immediate prospects for use.

At the same time, BGS has found several opportunities to “lead by example” in State properties for projects that can demonstrate new, clean energy technologies and building systems but where the SIR ratio of the overall project cost is either impractical to calculate or in some cases may fall below 1.0. One example is the addition of new public EV chargers on the grounds, or immediately adjacent to, the State capitol.

Staff at EMT is not comfortable using these funds to support some of the projects BGS has brought forward because the SIR does not meet the requirements memorialized in the MOA. Further, Staff thinks it would be better to let BGS and DAFS decide where and when it wants to expend funds to pilot or demonstrate new clean energy applications on its own properties in those cases where the SIR of the total project cost is below 1.0, recognizing that the subsidy from these funds would help make the project worthwhile. Additionally, enlisting BGS and DAFS to take the lead on driving some of these investments would help get the funds fully invested more quickly.

For these reasons, Staff seeks the Board’s authorization to amend the existing MOA to reflect two substantive changes: (1) that DAFS will take on a scope of work under the MOA to use funds to support demonstration projects for clean energy technology that is not obligated to meet the original SIR requirements and (2) that the budget available to EMT’s scope of work be revised to reflect the total funding needed as reflected in the table above, with the remainder being allocated to the DAFS scope of work.

Proposed Motion

Move to authorize the executive director to amend the MOA with the Office of Attorney General and Department of Administration and Financial Services (DAFS) so the scope of work and budget enables DAFS to directly develop and fund clean energy projects in an amount up to \$1,807,777.