



**EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE  
ACTION PLAN**

**Part 1: Contractor/Sub-Recipient Compliance**

**Part 2: Internal Employment**

**SFY 2012**

**Submitted by Theresa Savoy, Director  
Civil Rights Office  
October 1, 2012**

# **EEO/AA PROGRAM SUMMARY 2012**

## **PART 1 - EXTERNAL PROGRAM**

## **PART 2 - INTERNAL PROGRAM**

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## **Part 1- External Program**

### **Commissioner:**

The Commissioner of the MaineDOT has the overall responsibility for the Department's compliance with equal employment opportunity policy and provides support and direction in the implementation of the Affirmative Action Plan. He shall be responsible to assure that bureau Directors are meeting their responsibilities to set a tone of cooperation and support for EEO, affirmative action, and the general premise that all Contractor and Consultant employees be treated with dignity and respect.

### **Director, Civil Rights Office:**

The Director of the MaineDOT Civil Rights Office (CRO) reports directly to the Chief Counsel and is responsible for the daily management of the CRO. The Director plans and directs implementation of external civil rights programs under Title VII in the areas of affirmative action, Equal Employment Opportunity (EEO), Americans with Disabilities Act (ADA), and Title VI (Disadvantaged Business Enterprise programs); writes policy and procedures, correspondence, technical manuals; supervises staff to compile information and statistics and prepares reports, affirmative action plans, and workshops and presentations concerning program requirements to department staff, state and federal compliance agencies; coordinates and monitors various compliance activities; provides advice and assistance to all levels of departmental staff; serves as advisor and provides oversight, coordination/liaison role in gaining compliance for contracts with civil rights provisions; may investigate complaints, monitors progress of investigations, and oversees case file documentation; supervises compliance reviews and/or prepares department responses to state and federal compliance reviews; interprets laws, rules and regulations, guidelines, and court rulings or opinions; supervises the department of civil rights outreach programs; may present training to department staff. The Director also provides leadership and guidance to CRO staff. Hires and trains staff, assigns in resolving issues and problems.

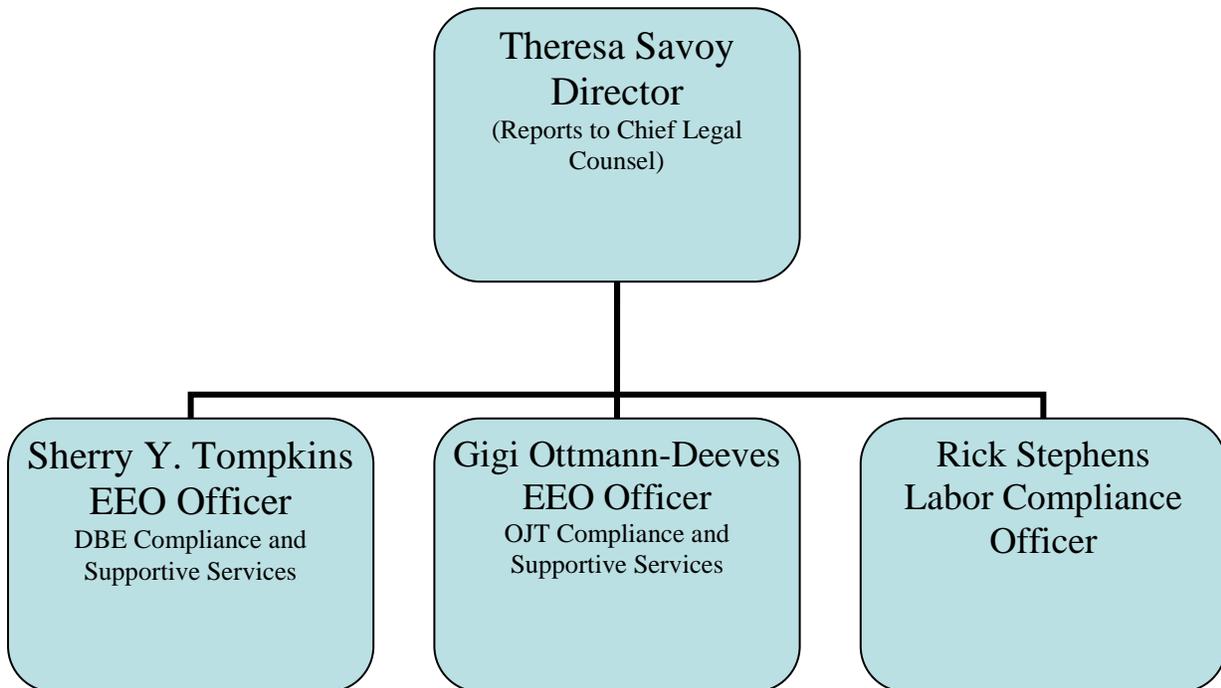
### **Equal Employment Opportunity Officers:**

The State Equal Employment Opportunity Officers (EEO) in the Civil Rights Office are responsible for providing direction, advice and support to the Department and to the contractors to assure compliance with state and federal EEO statutes, regulations, and policies. EEO Officers are responsible for ensuring that Contractors/ Consultants personnel actions are administered fairly and in accordance with state and federal EEO Laws and departmental EEO/AA policy on federal aid contracts.

### **Labor Compliance Officer**

Labor Compliance Officer is primarily responsible for Davis Bacon Labor Compliance in conjunction with all MaineDOT federally assisted construction projects. This includes visiting job sites, reviewing payrolls, interviewing employees, determining compliance with all Davis Bacon related regulations. This position is also responsible for processing and the management of Wage Rate Requests and tracking those requests. This position will be the lead on the Relations Payroll System for the Civil Rights Office.

## MaineDOT Legal Division Civil Rights Office



## CONTRACTOR COMPLIANCE PROCEDURES

### APPLICABLE DIRECTIVES:

1. FHWA Contract Compliance Procedures
2. EEO Special Provisions (FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec.,1, subsec.2, Attachment 1),
3. Training Special Provisions (HWA Federal-Aid Highway Program Manual, vol.6, chap.4, sec.1, subsec. 6 (Contract Procedures), and subsec. 8 (Minority Business Enterprise).
4. 23 USC Section 140 and Title VI of the Civil Rights Act of 1964, as amended, and related regulations, including 49 CFR Parts 21 and 23, and 23 CFR Parts 200, 230, and 633.

### IMPLEMENTATION:

**Describe process (methods) of incorporating the above FHWA directives into the State Highway Authority (SHA) compliance program.**

1. All compliance reviews conducted by the Civil Rights Office (CRO) will follow procedures outlined in 23 CFR 230. CRO will recommend findings of compliance or non-compliance based upon 2. (See below) and will report findings to the Federal Highway Administration (FHWA) or other appropriate agencies as required by the federal funding source.
2. The Department and FHWA have the authority and the responsibility to ensure compliance with 23 USC Section 140 and Title VI of the Civil Rights Act of 1964, as amended, and related regulations, including 49 CFR Parts 21 and 23, and 23 CFR Parts 200, 230, and 633.
3. The Department is required to prepare and complete written reports of its findings in contract compliance reviews. These reports, and the evidence on which they are based, shall be available to the U.S. DOT modal agency with jurisdictional authority.
4. The standard Federal Equal Employment Opportunity Construction Contract Specifications are included in all federal and federally assisted construction contracts.
5. The MDOT specifications establish specific and minimum affirmative action obligations.
6. Federal financially assisted contractors/sub-contractors designated to undergo a Contract Compliance Review will be reviewed by CRO to determine the Contractor's efforts to achieve maximum results from its affirmative action obligations.

## ACCOMPLISHMENTS:

**Describe accomplishments in the construction EEO Compliance program during the past fiscal year.**

**Does the STA's EO contract compliance program include policies and procedures to determine whether all participants performing on Federal-aid contracts are complying with their EO/EEO contract obligations?** Yes. Prior to any Contractor Compliance Review (CCR), the Prime has thirty (30) days to send CRO a copy of all Subcontractor folders and at the on-site review all Subcontractor folders are inspected by the Civil Rights Office.

Subcontractor process:

1. After Project Award Contracts Office will send Prime Contractor an email requesting Subcontractor information and certification.
2. Information received by Contracts Office is put into a spread sheet and scanned into TEDOCS.
3. The spread sheet is put on common drive under the appropriate year.
4. The Resident will check this form to see what information has been submitted for their project.
5. The Resident will create and maintain an on-site Subcontractor folder as part of their final records.
6. Available subcontractor information will be printed from TEDOCS, initialed by the Resident, and placed in the Subcontractor folder.
7. Missing information will be requested from the Prime by the Resident.
8. This information will be initialed by the Resident and placed in the Subcontractor folder with a copy sent to Contracts Unit.
9. The above part of the process shall be completed prior or at the pre construction meeting. Work shall not commence until process is complete.
10. During on site reviews by the Civil Rights Office, the reviewer will check the Subcontractor folder for completeness including the FHWA-1273.
11. On at least 10% of the Projects the reviewer will ask the Resident to obtain copies of the actual Subcontracts for completeness and place them in the Subcontractor folder.

The Contractors are required to send the following subcontract documents to the Contracts Office prior to subcontract approval: The memo also states that subcontracts are required to have the following documentation directly incorporated. For those subcontracts reviewed by the MaineDOT Civil Rights Office, these documents are being requested from the prime contractors and must be on-site.

- Request for Subcontract Acceptance (Signed by Contractor)
- Request for Lower Tier Subcontract Acceptance (Signed by Contractor and Subcontractor)
- Agreement between the Contractor and subcontractor (Signed by the Contractor and Subcontractor)
- EEO Pledge (Signed by the Contractor and Subcontractor)
- EPA Certification for NPDES (Signed by the Contractor and Subcontractor)
- FHWA 1273
- 49 CFR§26.13
- Goals for females and minorities, dated March 30, 2006
- EEO Clause- 41CFR§60 250.5(a)

**Does the State’s EEO Plan outline the number of contractor and subcontractors to review and its compliance status? Yes (see below)**

MaineDOT-EEO Contractor Compliance Reviews – Season 2012

1. Number of compliance reviews to be conducted – 4
2. Cancelled (project was completed)- 1
3. Number of Contractors reviewed – 3
4. Number of contractors found in compliance – 1
5. Number of Contractors found in non-compliance – 2
6. Number of show cause notices issued – 2
7. Number of show cause notices rescinded – 2
8. Number of show cause actions still under conciliation and unresolved –0
9. Number of follow up reviews conducted – 2

Contractors	Project Location	PIN	Program	Resident	OJT Hours	Review Date
Bruce A Manzer, Inc. 32 Barton Hill Road Anson, ME 04911	Anson, Embden, Kingfield, Lexington, New Portland	018269.00 019159.00 019174.00	Highway	Rachel Damon	N/A	July 10, 2012
H. C. Crooker & Sons 103 Lewiston Rd. P.O. Box 5001 Topsham, ME 04086- 5001	Bowdoin/Richmond	019130.00	Highway	Shawn Smith	N/A	July 24, 2012
Northern ME Paving, Inc. 154 Development Dr., Suite B Limestone, ME 04750	Van Buren Madawaska Grand Isle	017063.00 017997.00	Highway	Jason Peterson 592-3482	N/A	June 26, 2012

Bruce A. Manzer, Inc.  
32 Barton Road  
Anson, ME 04911

PIN # 018269 & 019174.00 located in (Anson, Embden, Kingfield & New Portland)

List of Deficiencies: **23 CFR§230.409**

- Contractors should have copies of any employment advertisements and job announcements which specifically include the EEO “tagline.” The tagline may state that the contractor is “an equal opportunity employer,” or it may alternately state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender or national origin. The tagline should appear on all company letterhead and correspondence placed in media including those targeted towards minority and female audiences.
- Sources likely to yield minority employees have not been contacted for recruitment purposes. **23 CFR§230.409**

REMEDIES TO SATISFY DEFICIENCIES:

The company provided copies of all public correspondence including company letterhead, estimates, facsimile cover sheets etc. with the EEO tagline included on each document. Contacts will be made to minority groups and through local recruitment places near the projects if they are recruiting for new employees. All correspondence will be kept and maintained in the main office. These actions will be implemented immediately.

RECOMMENDATIONS: Non compliance

7/17/2012- Show Cause letter sent.

8/14/12- MaineDOT provided technical assistance to the company with more clarification.

8/24/12- The Company provided more detail to the original documentation.

9/12/12- Notice of Rescission sent.

CONTRACTOR

Harry C Crooker & Sons, Inc.  
103 Lewiston Road  
P O Box 501  
Topsham, Maine 04086

Bowdoin-Richmond PIN # 019130.00

FINDINGS, CONCLUSIONS

Harry Crooker & Sons has been in operation for many years and has done high quality work for MaineDOT. The requested materials from the contractor for this review was complete and well organized and Mr. Ted Crooker (Treasurer), Richard Perkins (Safety Director) & Matt Ouellette (Laborer) all attended the on-site interview. Crooker does not subcontract much of their work because they do “dirt work” and do the most of the work themselves. Sometimes they will subcontract out services like stripping, flagging, guard rail & curbing. They utilized two (2) DBE firms on this project Country Fare, Inc. for drainage & excavation and Ace Detective & Security for flagging services. All posters were displayed properly although the project was close to completion. Crooker keeps records of all employee meetings and conducts annual training for all staff on EEO,

harassment and safety and will send out payroll stuffers when new information needs to be communicated. In order to attract women and minorities into the construction industry H C Crooker & Sons partners with Women Unlimited to host "Heavy Equipment Day" in order to attract women and minorities into the construction industry. Mr. Crooker donates several pieces of equipment and the use of his sandpits so anyone who is interested can explore the industry. It is my determination that this contractor makes sufficient efforts to comply with all the EO requirements.

**RECOMMENDATIONS: Compliance**

7/25/12- Compliance letter sent:

**CONTRACTOR**

Northern Maine Paving Inc.  
154 Development Dr., Suite B  
Limestone, Maine 04750

**FINDINGS:**

List of Deficiencies: 23 CFR§230.409

- Contractors should have copies of any employment advertisements and job announcements which specifically include the EEO "tagline." The tagline may state that the contractor is "an equal opportunity employer," or it may alternately state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender or national origin. The tagline should appear on all company letterhead and correspondence placed in media including those targeted towards minority and female audiences.
- Sources likely to yield minority employees have not been contacted for recruitment purposes.

**CONCLUSIONS:**

Northern Maine Paving is committed to complying with all EEO contract requirements. Subsequent to our non-compliance notice Northern Maine Paving submitted specific steps that will be implemented immediately.

- Amended its letterhead to incorporate the EEO "tagline" which states that Northern Maine Paving is an "equal opportunity employer." The "tagline shall appear on all future company letterhead, correspondence, employment advertisements and all job announcements.
- Obtained a DBE Supportive Services Directory from Eastern Maine Development Corporation as a resources in future contract bidding;
- Obtained the MaineDOT Contract Compliance Review Process Manual as a resource &
- Obtained the latest version of Contractor's Guide to EEO as a resource

**RECOMMENDATIONS: Non-Compliance**

7/9/2012-Show Cause letter sent

9/13/12- Rescission letter sent

**How does the MaineDOT identify the Federal-aid contractors that had discrimination complaints filed against them during the past fiscal year?**

We ask all potential bidders to submit an Equal Employment Supplemental Questionnaire which specifically asks about findings of probable cause or court rulings of sexual harassment, discrimination, or other civil rights violations within the past five (5) years?

Every season Civil Rights (CRO) is required to conduct Contractor Compliance Reviews and during the on-site interview we discuss any complaints that the Company may have had and review their Company Complaint Policy and procedures.

**ACCOMPLISHMENTS:**

**Describe accomplishments in the construction EEO Compliance program during the past fiscal year.**

The annual Contractor Prequalification Committee met on February 13, 2012 to review the 2012 Summary Sheet of all contractors seeking prequalification for the upcoming construction season. Most of the Contractors had submitted their renewal materials and to date the Civil Rights Office (CRO) reviewed 84 contractor submittals available at the link (below) under the specific contractors name and folders marked 2012:

[\\oit-isa1fsemc01.som.w2k.state.me.us/DOT-GENERAL/Contracts\\_Specs/Committee\\_Prequal](http://oit-isa1fsemc01.som.w2k.state.me.us/DOT-GENERAL/Contracts_Specs/Committee_Prequal)

Folder 1 Links and information includes:

- Prequalification Process
- Process for Notice to contractors
- Application
- Civil Rights Supplemental
- Safety Supplemental
- Sample of Renewal Request Letter
- Website's current Contractor Prequalification Status

Folder 2- Ratings Summaries includes:

- The new and old collective Contractor Performance Rating numbers. Copies of all individual ratings are in each of the contractor's folders.

Folder 3- Past years Summaries and Bid reports:

- This folder includes our work from last year and where this year's information will be after our meeting.
- Bid reports since 2007 are also available here for review.

Individual Contractor Folders:

- Performance Ratings
- Previous information
- Renewals for 2012

## **MAINEDOT, CIVIL RIGHTS OFFICE/ EEO SUPPLEMENTAL QUESTIONNAIRE**

- Written Affirmative Action Plan (signed and dated by CEO)
- Written sexual harassment policy (signed and dated by CEO)
- Sexual harassment training to employees & supervisors
- Non-discrimination policy
- Within 5 years, findings of probable cause or court rulings of sexual harassment, discrimination, or other civil rights violations?
- Does the company actively solicit bids/quotes from disadvantaged, minority, and/or women owned businesses?
- Describe the procedure you use to ensure your company is in compliance with Disadvantaged Business Enterprise requirements.
- Describe the procedure you use to ensure all subcontractors used by your company are in compliance with EEO laws.
- Provide a list of all companies you solicit subcontract bids/quotes from.
- What is the name of your company's EEO Officer.
- Provide a copy of the job description for your company EEO Officer.
- What percentage of that person's time is spent on EEO?
- Please complete the attached Company Construction Workforce Report (1391).
- Provide full copies of all subcontracts for this project.
- Copies of all current bargaining agreements.
- One copy (each) of all purchase orders, subcontracts and public correspondence containing the clause of being an "Equal Opportunity Employer".
- A list of company wide promotions and/or raises made during the past six months, to include race, national origin, sex, previous job held, job promoted into, and corresponding wage rates.
- Copies of three certified payrolls as follows; for the first week of the project, the peak week of employment on the project, and the most current payroll. Please denote for each person listed, the job classification, race, national origin and sex.
- Documentation of recruitment sources utilized.
- A blank job application and four (4) completed job applications received by the company.
- Blank performance evaluation form from the company and a sample of female and minority evaluations that have been conducted.

**Does the State have a method to notify OFCCP of contract compliance issues with EO 11246? If yes identify what type of reporting/tracking systems are used to evaluate the efforts of the contractor?**

Yes the MaineDOT, Civil Rights Office conducts on-site EEO Contractor Compliance Reviews on several prime contractors every year. During this review the Contractor is interviewed, records are reviewed (including all Subcontracts) poster boards are analyzed and employee interviews are done. The Civil Rights Office is also a board member on the Prequalification Committee and is responsible for reviewing and approving all EEO policies and procedures for each Prime Contractor. If issues concerning EEO/AA arise and resolution is not satisfactory MaineDOT would consult with FHWA and/or OFCCP for guidance.

**External Complaint Processing**

**Initial contact**

The Director of Civil Rights Office and the EEO Officers serve as MaineDOT's resources for members of the public who wish to file a discrimination complaint under EEO and related statutes. As resources, they will provide complainants with:

1. An explanation of their filing options.
2. The discrimination complaint process.
3. EEO and Related Statutes Discrimination Complaint Form

Use of the complaint form is not necessary for the complaint. Rather, it is intended to help the complainant provide enough information to begin processing the complaint.

**The Complaint Review Process**

1. The Director or her/his designee, reviews the complaint upon receipt to ensure the relevant information is provided, the complaint is timely, and meets jurisdiction.
2. The complainant shall be investigated, unless:
  - The complaint is withdrawn
  - The complainant fails to provide required information
  - The complaint is filed beyond the 180-day timeframe
  - The complaint is determined to be more appropriate under a jurisdiction other than MaineDOT. If this is the case, the complainant will be directed to the appropriate agency. (FTA, FHWA, FAA, DOL)
3. Upon determination that the complaint warrants a MaineDOT investigation, the complainant is sent a letter, acknowledging receipt of the complaint, and giving the name of the investigator.
4. The respondent- the person alleged to have committed the discrimination is notified by mail that s/he has been named in a complaint. The letter also includes the investigator's name and informs the respondent that s/he will be contacted for an interview.

Filed complaints: None

## **EXTERNAL TRAINING PROGRAMS - INCLUDING SUPPORTIVE SERVICES**

### **ON-THE-JOB-TRAINING PROGRAM**

#### **Has the state developed guidelines to select projects and determine how the number of trainees will be assigned?**

Yes the following methodology is utilized by MaineDOT in selecting projects and determining the number of trainees to be provided training:

- Dollar value of the federal-aid contract- 1000 OJT hrs /\$2.5 million dollars (based on estimate of labor costs minus materials)
- Duration of the contract (at least 6 months)
- Type of work (potential for effective training)
- Contractor's submittal of "Letter of Intent"

#### **Describe the State's process for reviewing the work classifications of trainees to determine that there is a proper and reasonable distribution among appropriate craft.**

Women Unlimited, Inc. (WU) (Consultant) submits information to MaineDOT, which includes the work classifications that are currently being used for trainees. Because there are such a variety of projects, however, there is naturally a proper and reasonable distribution among crafts in the OJT program. WU works closely in concert with MaineDOT, Civil Rights Office, to ensure that all trainees receive the benefit of appropriate training in the crafts that are needed within the contractor's scope of work as well as relating to the job. The determination of such crafts and who would benefit from learning them has to do with the demands of the company and projects they are being trained on. The crafts must align with the OJT manual, which is a living document. When there is need for a new craft element to be added, WU representatives, MaineDOT staff and Maine Department of Labor determine the value of that craft and how to benchmark the trainee's progress in the training of the craft.

#### **Describe the State's procedures for identifying the number of women and minorities who have completed training programs.**

The State's supportive service contractor is WU which is a 501(c) 3 non-profit agency. It is not considered to be a WBE by the state. The process by which WU was chosen to be a service contractor was through a RFQ process that culminated in a GCA interview. For the OJT Program, WU submits quarterly reports, which identify which trainees have completed their training programs. Periodically, other reports are submitted to MaineDOT when requested. All individuals who complete the training programs are sent a certificate of completion a copy of which is kept on file at the WU offices. These certificates issued by MaineDOT after WU provides proof of completion based upon the weekly reporting done by the employer as well as the monthly visits made by the WUOJT monitor.

## **MINORITY BUSINESS ENTERPRISE PROGRAMS:**

The DBE Program is funded by the Federal Highway Administration and administered by the Maine Department of Transportation. The DBE Program creates a level playing field for minority and women owned businesses competing for federally funded projects. It helps ensure non-discrimination and removes barriers when competing for federally administered contracts.

### **2011-2012 DBE Statistics:**

Number of new certifications: In-State: 6      Out-of-State: 11  
Number of Renewals:              In-State: 61      Out-of-State: 72  
Number that removed self from program: In-State 3      Out-of-State: 1  
Number of Denials: In-State: 1      Out-of-State: 0

## **MAINE DOT FFY 2012 DBE GOAL = 5.9%**

### **Describe the State's procedure for insuring that contractors take action to affirmatively solicit the interest, capability, and prices of potential minority subcontractors.**

As a race neutral state, MaineDOT is limited to a proactive effort. The State is tasked with educating the Prime Contractors regarding the availability of minority businesses through our DBE directory listing, announcements through quarterly Newsletters of our new DBE firms and their scope of work. Since Maine is a race neutral state all efforts would be on a pre-bid basis. Validation of these efforts would show in our Subcontract approval documentation. A supportive services contract was approved by FHWA with Eastern Maine Development Corporation (EMDC). EMDC provides quarterly reports to MaineDOT and final reports to FHWA. Their website is <http://www.maineptac.org/>.

## **INNOVATIVE PROGRAMS:**

### **Identify any innovative EEO programs or management procedures initiated by the State and not previously covered.**

As a result of recent specific project experience and consideration by the Bureau of General Services (BGS) and MaineDOT, we have concluded the common state government Contractor Prequalification process would be enhanced by including another category to further distinguish the “building” contractors who construct structures primarily utilized by BGS, the Department of Education and other Executive Branch agencies and those contractors who engage in a variety of specialized building construction projects primarily utilized by MaineDOT. Where there is one “Building” category now, there should be two categories: “Building- General Contractor” and “Building-Specialized”.

The reason for the change is to more readily conduct the prequalification process on projects that have a) a filed Sub-bid process done in cooperation with the Maine Construction Bid Depository, b) a Construction Manager Subcontractor prequalification process dictated by the statute, or c) a solicitation for contractors in the current “Building” category.

In the case of item (a) above, subcontractors need to know who all the interested General Contractors (GC) are on a particular project at least two weeks prior to GC bids being submitted since filed sub-bids are due, typically, one week before the GC bids are due. The Large number of building contractors on the prequalified list is greater than those GC’s who would be interested in bidding the project. This change would help the subcontractors reduce their paperwork and time identifying interested GC’s.

For item (b), many specialty contractors are solicited for Construction Manager Projects for prequalification status. Statute requires that this be done to ensure competitive bidding by those screened for the project.

Item (c), takes into account the various projects that are distinctly different from transportation projects and which may be only very occasionally done, such as a single family residence.

We are taking care to not limit the quantity nor exclude contractors as we undertake these changes. We intend to make the business of prequalification clear and straightforward for contractors and subcontractors regardless of what procurement method or building type is used. We will make some modifications to the process and continue to evaluate the experience for state government and contractors.

### **The new definitions:**

**Building-General contractor-** companies who are capable of acting as the prime contractor on a multi-discipline where they can coordinate the work of subcontractors.

**Building-Specialized-** companies who identify a specific area of expertise, such as electrical contracting, and have no desire to act as a general contractor.

## **TRAININGS & WEBINARS:**

Tri-State Transit Conference-September 28, 29 & 30, 2011

FTA DBE Reporting Webinar September 30, 2011-FTA Office of Civil Rights

National DBE Training Institute- November 1-3, 2011

NSTI Review/Updates Webinar November 15, 2011- FHWA- Office of Civil Rights

DBE & OJT supportive services webinar November 29, 2011

## **Internal Program**

### **Introduction**

#### **MaineDOT MISSION**

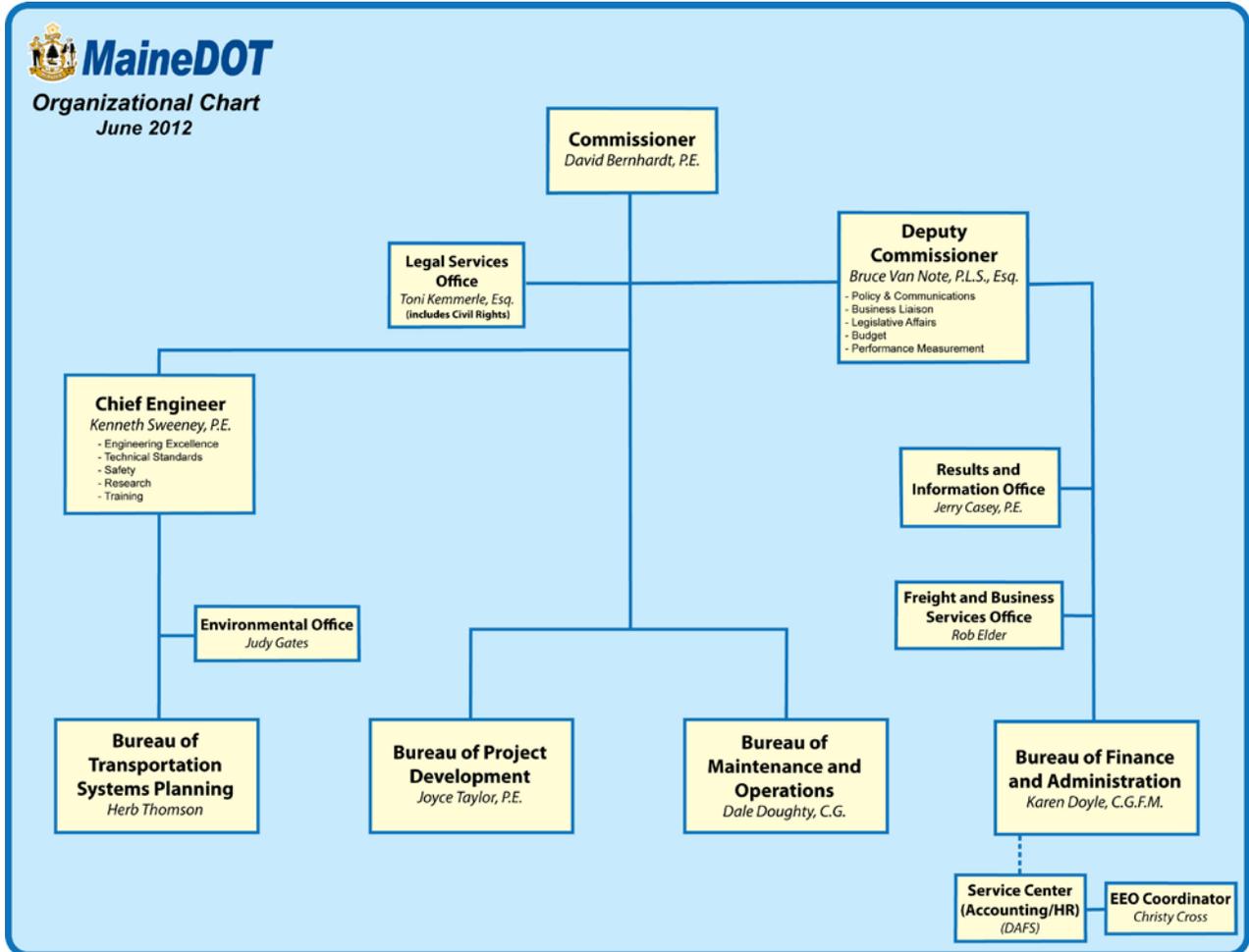
*To responsibly provide our customers with the safest, most reliable transportation system possible, given available resources.*

As an employer, the Department of Transportation endeavors to be a model employer – a workplace where people want to come to work and make the mission of the Department a reality. In order to become a model employer, it is imperative that the Department adhere to the principles, purposes and goals outlined in this plan.

The foundation for Equal Employment Opportunity Policy and Affirmative Action is derived from State and Federal laws and regulations, as well as a moral and professional commitment. The legal mandates include: Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972; the Rehabilitation Act of 1973; the Age Discrimination in Employment Act of 1967; the Equal Pay Act; the Maine Human Rights Act, 5MRSA, CH.337; the State Personnel Law, 5MRSA, CH 51, Section 553 (Non-Discrimination) and 5MRSA, CH 65 (Code of Fair Practices and Affirmative Action); and the Americans with Disabilities Act of 1990.

MaineDOT is firmly committed to the principles of equal employment opportunity and affirmative action. As a public agency, MaineDOT is an instrument of the taxpayers of Maine and has an obligation to provide fair and effective service to the public. This service requires insuring all individuals the right to work and advance based on merit, ability, and potential, free from unlawful discrimination.

# MaineDOT ORGANIZATIONAL CHART



# MaineDOT EEO POLICY

## MAINE DEPARTMENT OF TRANSPORTATION EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION POLICY STATEMENT

The Maine Department of Transportation shall continue to pursue a policy of non-discrimination in all employment actions, practices, procedures and conditions of employment.

1. Employment decisions will be based on the principles of equal employment opportunity. Recruitment, testing, selection, and promotion will be administered without regard to 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 unless a bona fide occupational qualification exists.
2. Further, personnel actions and conditions of employment, such as compensation, benefits, layoffs, job assignments, employee development opportunities and discipline shall be administered without regard to 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.
3. Reasonable accommodations will be made for any qualified individual, applicant or employee, in accordance with the provisions of the Maine Human Rights Act and the Americans with Disabilities Act.
4. Managers and supervisors are responsible for awareness of and response to potential discriminatory situations. Employees are required to cooperate fully with the investigation and/or resolution of any discrimination complaint.
5. Managers and supervisors are required to actively prevent and correct retaliation or harassment toward any employee who has been involved in the filing, investigation, or resolution of a discrimination claim.
6. The Department will address and attempt to resolve employee complaints regarding discrimination and harassment as expeditiously as possible. Supervisors and managers are required to contact the agency EEO Coordinator if they receive a complaint of this nature.
7. This policy shall not be construed to prohibit any employment action or policy which is required by federal law, rule or executive order.

I feel strongly that EEO and AA are not only the legal obligations of MaineDOT but help MaineDOT succeed in its Mission. To best assure quality service to the citizens of Maine, I have designated Christy Cross to be responsible for the implementation, monitoring, and record keeping of the agency EEO/AA Programs as well as providing technical assistance to applicants and employees. Christy can be reached at 624-3050 or 1-888-557-6690 (TTY).

The State EEO Coordinator in the bureau of Human Resources is also available as a resource to any state employee or supervisor. Laurel Shippee can be reached at 624-7368 or 1-888-577-6690 (TTY)

7/12/12   
Date David Bernhardt, Commissioner

## **RESPONSIBILITY ASSIGNMENT**

### **COMMISSIONER**

The MaineDOT Commissioner has the overall responsibility for the department's compliance with equal employment opportunity policy and provides support and direction in the implementation of the Equal Employment Opportunity/Affirmative Action Plan. He shall be responsible to assure that agency managers are meeting their responsibilities to set a tone of cooperation and support for EEO, affirmative action and the general premise that all employees be treated with dignity and respect.

In addition, the Commissioner will assign a member of the agency's upper management to be the EEO liaison with the service center providing its HR/EEO services. This will assure agency involvement in EEO issues affecting its employees.

### **EEO REPRESENTATIVES**

The State EEO Coordinator in the Bureau of Employee Relations is responsible for providing direction, advice and support to the agencies to assure compliance with state and federal EEO statutes, regulations and policies.

MaineDOT's HR functions are provided by a service center under the auspices of the Maine Department of Administrative and Financial Services. The service center HR director is responsible for ensuring that the EEO/AA obligations of the agencies within their service centers are met. The person assigned the EEO duties must have direct access to the Commissioner or agency head on all matters pertaining to compliance with EEO laws and policies.

The service center and/or MaineDOT employees responsible for MaineDOT EEO compliance will develop and monitor the MaineDOT EEO/AA goals. Their duties include, but are not limited to, the following:

- Develop, implement and monitor an EEO/AA training plan to assure that managers, supervisors and employees in the department receive the necessary training for compliance with law and policy
- Advise management of problem areas and recommend corrective action
- Serve as liaisons between the department and state and federal enforcement agencies as well as advocacy organizations and community groups
- Provide technical assistance to management and staff in EEO/AA matters
- Review selection/promotion criteria to assure job-relatedness particularly in areas of underutilization
- Investigate employees' complaints alleging discrimination and make recommendations for resolution

- Monitor compliance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act

### SERVICE CENTER DIRECTORS OF HUMAN RESOURCES

The service center Human Resource Directors are responsible for ensuring that personnel actions are administered fairly and in accordance with state and federal EEO laws and departmental EEO/AA policy. Duties include:

- Require written justification for hiring decisions based on job-related criteria when requested by EEO Representative
- Assure that records of personnel actions such as selection procedures are maintained for a period of two years
- Assure the involvement of the EEO Representative when HR/employee relations issues (e.g. complaints, investigations, grievances, FMLA, worker's compensation) have a potential EEO component
- Assure that all employee medical information is maintained separate from personnel files in a secure location and shared with supervisors only in accordance with state and federal regulations

### ADMINISTRATORS, MANAGERS AND SUPERVISORS

Managers and supervisors at MaineDOT are rated on their performance with regard to their administration of fair employment practices and State and Federal AA/EEO requirements. The following expectations are standards by which managers' and supervisors' performance can be judged in this area. Managers and supervisors are expected to:

- Develop and maintain a working knowledge of the basic principles of equal employment opportunity
- Make employment decisions based on the principles of equal employment opportunity
- Make good faith efforts to achieve the EEO/AA Plan goals, and be prepared to be personally accountable for some program goals
- Inform applicable EEO/HR staff when an employee has a medical condition that impacts the employee's performance or when an employee indicates a need for accommodation for a medical condition
- Support all EEO/AA policy directives and initiatives and present a positive example to employees by periodically discussing policy and program compliance with employees and by

fostering a constructive and positive attitude toward principles of equal employment opportunity and affirmative action

- Assure compliance with the MaineDOT Policy Against Harassment, including actively preventing and/or stopping inappropriate, unprofessional conduct in the workplace regardless of whether the behavior may constitute illegal harassment and reporting any complaints to the EEO Coordinator

## **PLAN/POLICY DISSEMINATION**

The MaineDOT EEO/AA Plan will be disseminated in the following manner:

MaineDOT's EEO Coordinator is responsible for disseminating the EEO/AA Plan. This dissemination will include at a minimum:

- Ensuring that the Commissioner, Deputy Commissioner, managers, and supervisors are aware of their responsibilities for implementation and compliance and are provided with contact information for the EEO Coordinator.
- Ensuring that copies of the EEO/AA policy statement and the Policy Statement Against Harassment are posted in the headquarters building in Augusta and all M&O work locations.
- Ensuring that the State EEO/AA Plan is available on the MaineDOT intranet website, ensuring availability for all MaineDOT work locations. Employees will be invited to review the plan and discuss any questions or concerns with the EEO designee

# MaineDOT ADA REASONABLE ACCOMMODATION POLICY

## REASSIGNMENT OF EMPLOYEE AS A REASONABLE ACCOMMODATION UNDER THE AMERICANS WITH DISABILITIES ACT

### GENERAL POLICY

It is the policy of the State of Maine to provide reasonable accommodations in the event that an employee is disabled or becomes disabled and can no longer perform the essential functions of his or her position. If reasonable accommodations cannot be made within the employee's current position, state and federal laws require the employer to explore reassignment to a vacant position. Agencies **must** first explore transfer and then demotion options for disabled employees who can no longer successfully perform their current jobs with or without reasonable accommodation.

The transfer or demotion of a disabled employee that is necessary to provide a reasonable accommodation for continued employment must be given priority over other means to fill available vacant positions, unless the reassignment would cause an undue hardship on the agency.

A position is available if it is currently vacant, approved to be filled, and there are no employees with a contractual right to the position.

Demotion to a position in a lower pay grade is appropriate only if there are no accommodations that would enable the employee to remain in a position in the same pay grade, or if both the agency and the employee agree that demotion is the most appropriate accommodation.

There is no obligation to promote an employee as a reasonable accommodation under the ADA. The transfer/demotion provisions of this policy do not apply to applicants for employment but are applicable only to employees currently holding or having rights to positions in State government.

### Employees Who are Injured on the Job

Whether an employee who is injured on the job is protected by the ADA will depend on whether the employee meets the statutory definition of "individual with a disability".

Not every employee injured on the job will meet the ADA definition. Work related injuries do not always cause physical or mental impairments severe enough to "substantially limit" a major life activity. Also, many on-the-job injuries do not cause long term impairments.

When, after maximum medical improvement has been reached, an impairment exists that substantially limits a major life activity, the employee meets the definition of an individual with a disability under the ADA and therefore the protections of the ADA must be provided to the employee.

### Definitions

**Disability/Physical or Mental Impairment** – "Physical or mental disability" means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness, and includes the physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist, as well as any other health or sensory impairment that requires special education, vocational rehabilitation or related services.

**Reasonable Accommodation** – Any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. It is unlawful not to make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or Employee with a disability, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the organization. Reasonable accommodations may take such forms as:

- Making a facility accessible to Employees;
- Job restructuring, within job's classification and compensation and without unreasonable impact on other workers;
- Some changes or flex in work hours or days;
- Providing interpretive services or assistive devices;
- Reassignment to a vacant position.

**Essential Job Functions** – The fundamental job duties of the position. A job function may be considered an essential function if Employees in the position must perform the function and: 1) the position exists to perform that function; or 2) the function is essential because of the limited number of Employees available among whom the performance of that job function can be distributed; and/or 3) the function is highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the function.

**Undue Hardship** – Significant difficulty or expense in, or resulting from, the provision of an accommodation. The determination of "undue hardship" takes into consideration anything that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature of the operation of the business.

**Qualification Standards** – The personal and professional attributes including the skill, experience, education, physical, medical, safety and other requirements that an individual must meet in order to be eligible for the position held.

### Reassignment Provisions

Each agency must first attempt to make reasonable accommodation that will enable the Employee to successfully perform the essential functions of the current position. If reasonable accommodation is not possible or if both the Employee and the agency agree that reassignment to another position within the agency is a more appropriate accommodation than accommodation in the current job, then the following provisions apply:

1. The agency must attempt to place the Employee in an equivalent vacant position that the Employee can perform, with or without reasonable accommodations, provided one is available within the agency. An equivalent position is a position with similar pay, status,

promotional opportunities, and other conditions of employment but not necessarily in the same job classification to which the Employee is currently assigned. The agency may nominate such Employee without testing, provided that the Employee meets established minimum qualifications for the classification.

2. An agency may demote an Employee to a lower graded available position if: 1) there are not accommodations that would enable the Employee to remain in the current position and there are no equivalent positions available for which the individual is qualified with or without reasonable accommodation, or 2) both the agency and the Employee agree that demotion is the most appropriate accommodation. In the event that an Employee demotes to another position, standard salary policies regarding demotions will apply. The agency may nominate such Employee without testing, provided that the Employee meets the minimum qualifications for the classification.
3. If demotion is being considered as a reasonable accommodation for a disability, or if no accommodation is available within the agency, the agency must inform the Employee of his/her right to access existing vacancies in other agencies. If the Employee selects this option, the agency must refer the Employee to the Bureau of Human Resources where the Employee will be assisted in identifying other transfer and demotion opportunities in state government in which they qualify. Normal transfer and demotion qualifying procedures will be followed.

Agencies will be required to consider all such Employees immediately after recalls from layoff. No candidates other than recall may be hired by an agency until disabled Employees seeking transfer or demotion from the other agencies as a reasonable accommodation have been considered. A disabled Employee is qualified and must be hired if the Employee is qualified to perform the essential functions of the position with or without accommodation.

### **Transitional Status**

The ADA requires the search of positions that are available at the time that it becomes evident that transfer must be explored as a reasonable accommodation. Recognizing that this search may take some time to complete, the Employee will be allowed to use accrued sick, vacation, and/or compensatory time to cover any time period that may elapse between the determination that the Employee cannot continue to perform the duties of his/her present position and the time that the Employee is reassigned or terminated in the event that reassignment cannot be made.

### **Procedures**

These procedures are specifically for the reassignment provision. Refer to the State of Maine Policy and Procedure for Processing Requests from Employees and Applicants for Reasonable Accommodation for more detailed guidance on providing accommodations within a given position.

The potential for reassignment as a reasonable accommodation begins when a request for accommodation is made in accordance with established procedures, but may be considered **only** when no reasonable accommodation can be made in the Employee's current position.

1. Requests for consideration for reassignment can be initiated by the Employee needing accommodation, the supervisor/manager, the EEO Coordinator or agency/State Workers' Compensation staff. Requests can be made at any time. Under the State of Maine Policy and Procedure for Processing Requests from Employees and Applicant for Reasonable Accommodation, agency the EEO Coordinator is also available for technical assistance in the reasonable accommodation search/documentation process. All requests for accommodation and efforts to provide accommodation must be documented. It is recommended that medical documentation of the Employee's limitations and need for accommodation be required.

Accommodations must be explored in the following order:

- Accommodation within the existing job;
- Reassignment to a job of similar pay and status;
- Demotion.

Full documentation must be provided concerning efforts to make reasonable accommodation in accordance with this policy, including reasons for bypassing reassignment to a position of similar pay and status.

2. If the Employee is transferred or demoted, the agency must submit a statement that the action is taken in accordance with this policy to the Bureau of Human Resources when the transaction is entered on MFASIS. This statement will serve as authorization for the reassignment and will serve as notice to the Bureau that such an accommodation has been made.
3. Whenever a reasonable accommodation cannot be made within the employing agency, or whenever the only accommodation available within the agency is demotion, the Employee must be informed of his/her right to access existing vacancies in other agencies and referred to the Bureau of Human Resources.
4. The Bureau will review all such referrals and the agency's accommodation documentation to ensure that more favorable accommodations cannot be made for the Employee within the agency before considering placement to another agency.

#### **Interpretive Guidance and Technical Assistance**

A complete understanding of essential job functions, reasonable accommodation and undue hardship is necessary to properly administer the provisions of this policy.

Additionally, agencies may need technical assistance when it is necessary to explore the need for reasonable accommodation that may or may not include reassignment. Technical assistance is available from the following:

- Christy Cross, EEO Coordinator, MaineDOT  
624-3063 (Tel.) 624-3051 (Fax) or 1-888-577-6690 (TTY)

- State EEO Coordinator, Bureau of Human Resources 287-4651 (Tel.)  
or 1-888-577-6690 (TTY)
- Legal Counsel, Bureau of Employee Relations 287-4447 (Tel.)  
or 1-888-577-6690 (TTY)

7/12/12   
Date David Bernhardt, Commissioner

## **ADA Reasonable Accommodations SFY 2012**

The EEO Coordinator processed 19 new or continuing requests for reasonable accommodation. There was one termination of an employee no longer able to perform the essential job functions and one reassignment as reasonable accommodation. These requests were all done with the involvement of MaineDOT personnel specialists/officers, including where applicable MaineDOT's Workers Compensation specialists.

Of the 19:

- 2 were in Region 1
- 2 were in Region 2
- 2 were in Region 3
- 6 were in Region 4
- 3 were in Region 5
- 1 was in Fleet Services, Augusta
- 3 were Reg. 6 (Augusta HQ)

# MAINE DEPARTMENT OF TRANSPORTATION POLICY STATEMENT AGAINST HARASSMENT

## MAINE DEPARTMENT OF TRANSPORTATION POLICY STATEMENT AGAINST HARASSMENT

### I. General Policy Statement

The Maine Department of Transportation 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 Department 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 MaineDOT 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 through personal observation or information from another party, they must consult with the Department's EEO Coordinator and 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. Even if the person providing information requests that no action be taken, the supervisor must contact the EEO Coordinator. 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**

MaineDOT 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 300 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 MaineDOT, the complaint may be submitted to the Maine Workers' Compensation Board.

For more information, contact: Maine Human Rights Commission.....624-6050  
1-888-577-6690 (TTY)  
State EEO Coordinator..... 287-4651  
1-888-577-6690 (TTY)

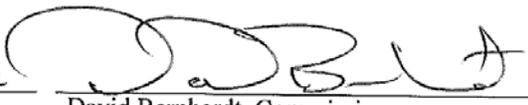
#### **V. Retaliation**

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 MaineDOT 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.

MaineDOT's EEO Coordinator Christy Cross is responsible for handling complaints and providing technical assistance to staff regarding these issues. She may be reached at (207) 624-3063 (TTY 1-800-577-6690).

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 1-888-557-6690).

7/12/12   
Date David Bernhardt, Commissioner

## **DISCRIMINATION/HARASSMENT COMPLAINT PROCESS**

### **Internal Complaint Processing**

**Initial contact** Personnel Specialists, Personnel Officers, Managers, Supervisors and Personnel Assistants serve as MaineDOT's resources for employees who wish to file a discrimination or sexual harassment complaint under Title VII of the Civil Rights Act of 1964, the Maine Human Rights Act, or the Americans with Disabilities Act (ADA). As resources, they will provide complainants with:

1. Referral to the MaineDOT EEO Coordinator; or
2. An explanation of their filing options.
3. The discrimination complaint process.
4. A Discrimination Complaint Form.

Use of the Complaint Form is not necessary for the complainant. Rather, it is intended to help the complainant provide enough information to begin processing the complaint.

### **The Complaint Review Process**

1. The EEO Coordinator reviews the complaint upon receipt to ensure that relevant information is provided, the complaint is timely, and meets jurisdiction.
2. The complaint shall be investigated, unless:
  - The complaint is withdrawn.
  - The complainant fails to provide required information.
  - The complaint is filed beyond the 180-day timeframe.
  - The complainant is not part of a protected group.
  - The complaint is determined to be more appropriately under a jurisdiction other than MaineDOT. If this is the case, the complainant will be directed to the appropriate agency.

## **Investigation**

**Investigation Plan** The investigator shall prepare a plan in accordance with Collective Bargaining investigation practices which includes but is not limited to the following:

- Names of the complainant(s) and respondent(s);
- Basis for the complaint;
- Issues, events or circumstances that caused the person to believe that s/he has been discriminated against;
- Criteria, sources necessary to obtain the information;
- Identification of key people;

### **Conducting the Investigation**

- The investigation will address only those issues relevant to the allegations in the complaint.
- The investigation will follow the procedures as proscribed in the agreements between the State of Maine and the Maine State Employees Association SEIU Local 1989, as applicable for each bargaining unit.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.

### **Investigation Reporting Process**

- The investigation reporting process will follow the procedures as proscribed in the agreements between the State of Maine and the Maine State Employees Association SEIU Local 1989, as applicable for each bargaining unit.

## **Records**

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

**Discrimination/Harassment Complaint Form**

**MAINE DEPARTMENT OF TRANSPORTATION  
Maine Human Rights Act,  
Title VII of the Civil Rights Act of 1964  
or  
Americans with Disabilities Act (ADA)**

1. Name:
2. Address:
3. Telephone Number:
4. Name of person charged with discrimination (respondent):
5. Date of alleged discriminatory act:
6. Type of discrimination:
7. Please write a summary of the facts supporting your complaint (use additional pages as necessary):
8. Names of witnesses to the alleged discriminatory act:

Signed: \_\_\_\_\_

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



<b>5. PARA-PROFESSION</b>	<b>33. \$0.1-15.9</b>											
	<b>34. 16.0-19.9</b>											
	<b>35. 20.0-24.9</b>											
	<b>36. 25.0-32.9</b>	12	3					9				
	<b>37. 33.0-42.9</b>											
	<b>38. 43.0-54.9</b>	1	1									
	<b>39. 55.0-69.9</b>											
	<b>40. 70.0-PLUS</b>											
<b>TOTAL</b>		13	4	0	0	0	0	9	0	0	0	0
<b>6. ADMIN SUPPORT</b>	<b>41. \$0.1-15.9</b>											
	<b>42. 16.0-19.9</b>											
	<b>43. 20.0-24.9</b>	1	1									
	<b>44. 25.0-32.9</b>	19	5					14				
	<b>45. 33.0-42.9</b>	70	17					51	1	1		
	<b>46. 43.0-54.9</b>	5	1					4				
	<b>47. 55.0-69.9</b>											
	<b>48. 70.0-PLUS</b>											
<b>TOTAL</b>		95	24	0	0	0	0	69	1	1	0	0
<b>7. SKILLED CRAFT</b>	<b>49. \$0.1-15.9</b>											
	<b>50. 16.0-19.9</b>											
	<b>51. 20.0-24.9</b>											
	<b>52. 25.0-32.9</b>	244	233					11				
	<b>53. 33.0-42.9</b>	438	416	1			7	14				
	<b>54. 43.0-54.9</b>	61	60					1				
	<b>55. 55.0-69.9</b>											
	<b>56. 70.0-PLUS</b>											
<b>TOTAL</b>		743	709	1	0	0	7	26	0	0	0	0
<b>8. SERV/MAINT</b>	<b>57. \$0.1-15.9</b>											
	<b>58. 16.0-19.9</b>											
	<b>59. 20.0-24.9</b>	172	162	1				8		1		
	<b>60. 25.0-32.9</b>	69	61	1				7				
	<b>61. 33.0-42.9</b>	2	2									
	<b>62. 43.0-54.9</b>											
	<b>63. 55.0-69.9</b>											
	<b>64. 70.0-PLUS</b>											
<b>TOTAL</b>		243	225	2	0	0	0	15	0	1	0	0
<b>65. TOTAL FULL TIME (LINES 1-64)</b>		1690	1415	8	3	4	11	241	2	3	2	1
<b>2. OTHER THAN FULL-TIME EMPLOYEES (Including temporary employees)</b>												
<b>66. OFFICIALS/ADMIN</b>												
<b>67. PROFESSIONALS</b>		21	19					2				
<b>68. TECHNICIANS</b>		47	38	1				7		1		
<b>69. PROTECTIVE SERVICE</b>												

70. PARA-PROFESSIONAL	24	4					19		1		
71. ADMIN. SUPPORT	1	1									
72. SKILLED CRAFT	34	32					2				
73. SERVICE/MAINTENANCE	53	49				1	3				
74. TOTAL OTHER THAN FULL TIME (Lines 66-73)	180	143	1	0	0	1	33	0	2	0	0
<b>3. NEW HIRES DURING FISCAL YEAR (Permanent full time only)</b>											
75. OFFICIALS/ADMIN	1	1									
76. PROFESSIONALS	10	4					6				
77. TECHNICIANS	8	7					1				
78. PROTECTIVE SERVICE											
79. PARA-PROFESSIONAL	1	1									
80. ADMIN. SUPPORT	3						3				
81. SKILLED CRAFT	8	8									
82. SERVICE/MAINTENANCE	87	84					3				
83. TOTAL NEW HIRES(Lines 75-82)	118	105	0	0	0	0	13	0	0	0	0

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## DESCRIPTION OF JOB CATEGORIES

1. Officials and Administrators: Occupation in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, examiners, wardens, superintendents, sheriffs, police and fire chiefs and inspectors and kindred workers.
2. Professionals: Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: Personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, system analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants and kindred workers.
3. Technicians: Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: Computer programmers and operators, drafters, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), assessors, inspectors, police and fire sergeants and kindred workers.
4. Protective Service Workers: Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police patrol officers, firefighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, game and fish wardens, park rangers (except maintenance), and kindred workers.
5. Paraprofessionals: Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept. Included: research assistants, medical aides, child support workers, policy auxiliary welfare service aides, recreation assistants, homemakers aides, home health aides, library assistants and clerks, ambulance drivers and attendants, and kindred workers.
6. Administrative Support: Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk typists, stenographers, court

transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks and kindred workers.

7. **Skilled Craft Workers:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: Mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters and kindred workers.
  
8. **Service and Maintenance:** Occupations in which workers perform duties which result in or contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: Chauffeurs, chefs, waitresses, home care aids, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, child care workers, bus drivers custodial employees, gardeners and groundskeepers, refuse collectors, construction laborers.

**Civilian Labor Force Availability:**

		Percent		Percent		Percent	TOTAL
	MALE	MALE	FEMALE	FEMALE	MINORITY	MINORITY	
Officials and Admin	50,825	58.9%	35,514	41.1%	1,764	2.0%	86,339
Professionals	48,343	41.9%	67,105	58.1%	3,408	3.0%	115,448
Technicians	5,724	37.6%	9,484	62.4%	363	2.4%	15,208
Prot Serv	7,405	89.2%	894	10.8%	189	2.3%	8,299
Prot Serv Non Sworn	431	46.9%	488	53.1%	74	8.1%	919
Admin Support	46,774	30.5%	106,340	69.5%	4,104	2.7%	153,114
Skilled Craft	70,109	93.5%	4,838	6.5%	1,727	2.3%	74,947
Service and Mainten	110,420	55.8%	87,515	44.2%	7,215	3.6%	197,935
	340,031	52.1%	312,178	47.9%	18,844	2.9%	652,209

**MaineDOT Labor Force:**

		Percent		Percent		Percent	TOTAL
	MALE	MALE	FEMALE	FEMALE	MINORITY	MINORITY	
Officials and Admin	66	75.9%	19	21.8%	2	2.3%	87
Professionals	248	73.4%	70	20.7%	13	3.8%	338
Technicians	186	77.8%	48	20.1%	10	4.2%	239
Prot Serv Sworn	0	0	0	0	0	0	0
Prot Serv Non Sworn	0	0	0	0	0	0	0
Admin Support	25	26%	71	74%	2	2.1%	96
Skilled Craft	741	95.4%	28	3.6%	10	1.3%	777
Service and Mainten	277	93.6%	19	6.4%	4	1.4%	296
	1,543	84%	252	13.7%	41	2.2%	1836

## Workforce Utilization Analysis – NARRATIVE

Analysis of the department's utilization of women and minorities reveals underutilization of women considering the number of employees overall. With regard to minorities, there is less underutilization, as noted in the categories addressed below. Underutilization will continue to be addressed through expanded certifications, and monitoring and education of supervisors in appropriate selection procedures.

A retirement incentive program in SFY 2012 doubled the usual annual number of retirements. Of the 101 retirees 15, or 14.9% were women and 3, or 3% were minorities. These numbers are proportionate to MaineDOT's overall workforce, with women comprising 13.7% of the workforce and minorities comprising 2.2%.

Given MaineDOT's current budget and the State's hiring freeze efforts, we expect annual hirings to continue to remain low. Hiring goals for the coming year have been adjusted accordingly.

Following is a discussion of each of the EEO categories:

**Cat. 1 Officials and Managers (total = 87)** - There are 21.8% or 19 women and 2.3% or 2 minorities in this category. The Civilian Labor Force Availability indicates a 41.1% availability of women. The Civilian Labor Force Availability for minorities is 2%.

*In SFY 2012 hiring remained down and there was only one hire, a nonHispanic white male. Assuming hiring continues to be down, MaineDOT should hire/promote 1 woman into this category in SFY 2013.*

Net Gain/Loss: - 1 women; 0 minorities.

**SFY 2013 Goal:** *hire/promote 1 woman into this category.*

**Long term goal:** *19 additional women to match the Civilian Labor Force Availability.*

**Cat. 2 Professionals (total = 338)** - Women constitute 20.7 % or 70 employees and minorities constitute 3.8% or 13 employees of the 338 positions in this category. There is a significant under representation of women in this category as the Civilian Labor Force Availability indicates availability of 58.1%. The availability of minorities is 3%. Expanded certifications and direct hire recruitment strategies will be utilized for women in this category.

*Annual hiring in EEO Category 2 varies from year to year. Given the continuing hiring freeze in State Government it is likely the hiring of new employees in this category will remain low.*

In State Fiscal Year 2012, MaineDOT hired 10 people into EEO Cat. 2. Of the 10, 6 – or 60% – were women, and 4 were non-Hispanic white males.

Net Gain/Loss: +3 women and 0 minorities

SFY 2013 Goal: *hire/promote 8 women into this category.*

Long term goal: *126 additional women and 0 additional minorities to match the Civilian Labor Force Availability.*

**Cat. 3 Technicians (total = 239)** - Of the 239 positions in this category, women make up 20.1 % or 48 women as compared to the Civilian Labor Force Availability of 62.4%. In this category 8 minority employees – at 3.4% – exceed the Civilian Labor Force Availability of 2.4%.

*MaineDOT hired 9 people into this category in SFY 2012, 8 nonHispanic white males and 1 woman. Women received 39% of the promotions in this category in SFY 2012 and minorities received 7.3%. Hirings are expected to remain low in this category in SFY 2013.*

Net Gain/Loss: +8 woman and +2 minorities

SFY 2013 Goal: *hire 4 women into this category.*

Long term goal: *101 additional women to match the Civilian Labor Force Availability.*

**Cat. 4 & 5 Protective Service: Sworn/Non-Sworn** – MaineDOT has no employees in the two Protective Service categories. However, there are 37 employees in EEOC Category 5 – Para-Professionals. These employees are all ferry service customer representatives, many of whom are part time and/or seasonal. With 78% women, there is no female underutilization. With one – or 2.7% – minority employee, there is no minority underutilization.

**Cat. 6 Administrative Support (total = 96)** - There is no underutilization of women in this category. The Civilian Labor Force Availability for minorities is 2.7%. There are 2 Category 6 minority employees, or 2.1%. Minorities are underutilized in Category 6.

SFY 2013 Goal: *hire 1 minority into this category.*

Long term goal: *1 additional minority to match the Civilian Labor Force Availability.*

**Cat. 7 & 8** – Most of the employees in these two categories work on highway/bridge maintenance crews. The entry level is typically Cat. 8 Transportation Worker I positions, with advancement into Cat. 7 drawn from Cat. 8.

The Civilian Labor Force Availability (CLFA) for Cat. 7 is 6.5%. Because Cat. 8 includes, for example, chefs, waitresses, home care aids, laundry and dry cleaning operators, child care workers, bus drivers and custodial employees, the CLFA of 44.2% in this category is heavily weighted toward women. The CLFA in this category is 3.6% for minorities. Given this, MaineDOT's goal is to hire women and minorities for entry level Cat. 8 positions at rates sufficient to meet or exceed the CLFA for Cat. 7. Turnover

in Cat. 8 has averaged 40% during the first year of employment, therefore a goal of 13% for women and 5% for minorities will ensure meeting the CLFA for Cat. 7.

**Cat. 7 Skilled Craft (total = 777)** – There is an under representation of both women and minorities in this category. While compared to the Civilian Labor Force Availability (CLFA) of 6.5%, women are employed in 3.6% or 28 of the 777 positions in this category. There is currently 1.3% or 10 minorities employed in this Category while the CLFA shows 2.3%. Expanded certifications and direct hire recruitment strategies will be utilized for women and minorities in this category. The Internal EEO Coordinator should be contacted for assistance. Only 8 people were promoted or were hired into Cat. 7 positions in SFY 2012.

Net Gain/Loss: -4 women and +1 minority

*SFY 2013 Goal:* *to hire/promote 3 women and 2 minority employees into EEO Cat. 7.*

**Long term goal:** **22 women and 10 minorities to match the Civilian Labor Force Availability.**

**Cat. 8 Service and Maintenance (total = 296)** – This category has a historic underutilization of women, with 6.4% or 19 of 296 employees in this category. Minorities make up 1.4 % or 4 employees in this category.

In State Fiscal Year 2012, MaineDOT hired 87 people in EEO Cat. 8. Of the 87, three were women, and none were minorities.

Net Gain/Loss: +3 women and 0 minorities

*SFY 2013 Goal:* *to hire 5 women and 3 minorities into this category.*

**Long term goal:** **20 women and 3 minorities to attain 6.5% women and 3.6% minorities in EEO Cat. 7.**

## **GOALS AND ACCOMPLISHMENTS**

### **Goal: Outreach/Recruitment/Retention Ongoing**

MaineDOT's EEO Coordinator will continue as a member of the Diversity Hiring Coalition, the goal of which is to increase hiring in Maine of minorities and will work with the State of Maine Special Appointments program to place people with disabilities into employment. She will also continue as a member of the Women's Employment Committee of the Maine Jobs Council and will continue to coordinate and host regular meetings of EEO Coordinators representing other state agencies, to share information and strategies.

MaineDOT's EEO Coordinator will conduct interviews with a variety of MaineDOT women employees in nontraditional job classifications to identify potential recruitment and retention strategies (This goal is carried over from the previous year).

MaineDOT will provide training to Regional personnel assistants and personnel officers and managers regarding recruitment/retention of women, minorities and people with disabilities.

The State of Maine is preparing a request for proposals to develop a new statewide personnel management system. This system will enable enhanced abilities for tracking applications and hiring of women, minorities and people with disabilities.

### **ACCOMPLISHMENTS**

Implementation of a new EEO applicant tracking database has been canceled due to development – in process – of a the new statewide personnel management system.

MaineDOT's EEO Coordinator continued to serve on the Mentoring Program Advisory Team through February, when the program ended due to the departure of the MaineDOT training director.

MaineDOT participated in the Women Unlimited Job Fair, however recruitment efforts continue to be impacted by the hiring freeze.

MaineDOT participated in a Totally Trades conference in Aroostook County for girls interested in non-traditional occupations.

MaineDOT participated in five employer panels in March, sponsored by Women Unlimited and the Maine Department of Labor. Panelists provided information to women and minorities interested in occupations that are non-traditional for women. The five panels were in Portland, Springvale, Bangor, Lewiston and Augusta.

MaineDOT participated in a project of the Women's Employment Committee of the Maine Jobs Council documenting the economic well-being of women and, more specifically, women of color in the state of Maine.

**Goal: Americans with Disabilities Act Ongoing**

The EEO Coordinator will continue to work with employees with disabilities under Workers Compensation and/or employees with Family Medical Leave needs to supplement those programs with ADA reasonable accommodation as needed.

The EEO Coordinator will continue to work with the Special Appointments Program to bring qualified people with disabilities into the MaineDOT workforce.

**ACCOMPLISHMENTS**

The EEO Coordinator:

- provided training Region 5 Supervisors Jan. 26, 2011, regarding medical confidentiality, ADA and FML processes, and Special Appointments program.
- Worked with the MaineDOL bureau of Vocational Rehabilitation to facilitate trial employment opportunities and/or regular hires for 1 person with a disability under the Special Appointments Program and promoted 1 person who had been previously hired under the Special Appointments Program.
- On Feb. 29, 2012 Attended a 2010 Americans with Disabilities Act Standards for Accessible Design workshop.

The State Accessibility Coordinator deactivated the Maine State Government NexTalk system because computers and the '711' relay system are being used increasingly by people with hearing impairments.

**Goal: Title VII and other Employment Related Training Ongoing**

MaineDOT offers Harassment Avoidance Training through its New Employee Briefings and to individual work locations, and EEO training for managers and supervisors through The Leadership Challenge.

1. Present the following EEO training events:
  - Training for Managers and Supervisors – as many as needed
  - New Employee Welcome Information Sessions – as many as needed
  - The Leadership Challenge – when it is offered
  - Training for Members of Interviewing Panels – as many as needed/requested
  - Continued Harassment Training for supervisors – as many sessions as necessary to complete training for all supervisors
  
2. Incorporate Race, Gender and Disability status into tracking database for Training Unit.

ACCOMPLISHMENTS

MaineDOT's Human Resources provided harassment/nondiscrimination training to 166 new employees and to 44 new supervisors in SFY 2011.

MaineDOT's EEO Coordinator continues to host monthly meetings with the EEO Coordinators from other state agencies and with the Assistant Attorney General for civil rights employment issues. This is an important forum for information sharing and for staying updated on new court decisions and civil rights law and/or policy changes.

### **Additional accomplishments: 2011-2012**

- Held a quarterly meeting with Commissioner Bernhardt and Deputy Commissioner Van Note on June 16. Additional meetings are scheduled for Sept. 21 and Dec. 21, 2011 and for March 21, 2012. (See page 42 for agenda)
- HR Staff and/or the personnel assistants continue to monitor interviews both for new MaineDOT employees and for promotion of existing MaineDOT employees to ensure fair and equal selection process.
- The EEO Coordinator has worked closely with managers and HR staff in all requests for reasonable accommodations, and to coordinate with Workers Compensation and Family Medical Leave.

### **SFY 2012 DISCRIMINATION COMPLAINTS REPORT**

- There were no new Maine Human Rights Commission complaints in SFY 2011; a complaint filed in 2009 was amended by adding a charge of retaliation; the complaint resulted in a “no reasonable grounds” finding.
- There was one complaint of disability discrimination filed in SFY 2011 with the EEOC. That complaint was settled through mediation.
- MaineDOT received one internal ADA accessibility complaint in June of SFY 2011.
- There were four internal complaints: two sexual harassment, one harassment/hostile work environment based on disability and one inappropriate computer use. All were investigated and substantiated and MaineDOT took appropriate action.

## ATTACHMENTS

### **Quarterly EEO Commissioner, Deputy Commissioner meeting** **Sept. 21, 2011**

1. MHRC
  - a. (name redacted)
  - b. (name redacted)
2. EEO Plan has been approved by FHWA
3. Informal accommodations in crews
4. Crew numbers
5. Overall numbers

### **Quarterly EEO Commissioner, Deputy Commissioner meeting** **Dec. 21, 2011**

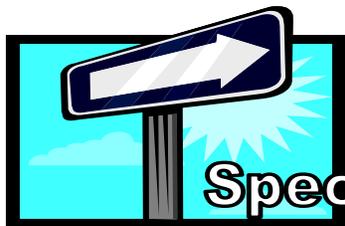
1. Women/minorities over time
2. FTA update
  - a. ~~May have to rewrite plan, even though FHWA has approved it.~~  
(We now have a waiver from FTA's approval process.)
3. Updated Harassment Policy
4. EEO meeting next month to discuss tightening up leave usage, vis a vis FMLA and ADA.

### **Quarterly EEO Commissioner, Deputy Commissioner meeting** **March 26, 2012**

Meeting cancelled.

Next meeting scheduled for Aug. 15, 2012

## Special Appointment Program



# State of Maine Special Appointment Program

## Special Appointment Process for Clients of Vocational Rehabilitation to Access State Jobs

### **PURPOSE**

The purpose of the Special Appointment Program is to provide clients of Vocational Rehabilitation with severe disabilities increased access to positions in Maine State government.<sup>1</sup>

### **Procedure**

In place of the established examination process, participants in the Special Appointment Program will be appointed to positions in an acting capacity basis for a trial employment period in accordance with Chapter 8, Section 6 of the Civil Service Rules.

The following conditions must be met before a Special Appointment can be made:

- The candidate must meet the established minimum qualifications for the position;
- The candidate has been evaluated by a qualified professional who has certified that the candidate has the capability to learn or achieve the knowledge and skills required to perform the work required;
- The environment where the work will be performed has been evaluated by a qualified professional who has certified that the candidate can, with proper support and training, learn to perform the required work in this environment without injury to self or others.

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<sup>1</sup> Exceptions to the requirement that a participant be a client of the Bureau of Rehabilitation Services may be granted by the State EEO Coordinator if there is a qualified rehabilitation professional employed by the State of Maine involved with the applicant.

Although the acting capacity trial employment period can last up to one year, participants will be transferred from acting capacity to regular employment status as soon as they attain the level of performance that is acceptable for the position. The acting capacity trial employment period may be terminated at any point that the supervisor, with input from the agency Special Appointment representative and Vocational Rehabilitation Counselor (VRC) or Community Rehabilitation Provider (CRP), determines that the employee is unable to attain a level of performance that is acceptable for the position. Participants in the program will be provided ongoing or as needed support services during the trial employment period through the Bureau of Rehabilitation.

### **Two Entry Points for Special Appointment**

There are two ways in which a candidate can be matched to a potential Special Appointment position in State government.

1. The first is through a **direct placement** utilizing the following process:
  - The candidate's Vocational Rehabilitation Counselor (VRC) or Community Rehabilitation Provider (CRP) identifies a posted vacancy as a potential placement and contacts the VR liaison who in turn contacts the hiring agency Special Appointment representative (H.R. Liaison);
  - The H.R. Liaison will contact the hiring supervisor to arrange a meeting between the supervisor and the VRC or CRP to discuss the details of the position requirements;
  - The supervisor and H.R. Liaison determine whether to interview the candidate without considering other applicants, to interview the candidate in addition to other applicants including transfers and demotions, or not to consider the candidate.
  - At the time a candidate is placed into a Special Appointment acting capacity position, the H.R. Liaison will prepare a written agreement outlining the conditions of the appointment to be signed by all parties. (See attached)
  
2. The alternative way is through a **Situational Assessment**, which is a short-term trial work experience to determine that the client has the requisite skills and abilities to succeed in a given position. There is no cost to the employer for this Situational Assessment nor does there need to be a vacant position. The only requirements are that there be work available to give the client a meaningful work experience and that the supervisor be willing to work with the client and the VRC or CRP to both assign work and assess competency. The process for Situational Assessments is as follows:
  - In order to explore the possibility of a Situational Assessment for a client, the VR Liaison (on behalf of the VRC or CRP) contacts the appropriate H.R. Liaison to identify a job class for the Situational Assessment;

- Once the agency has determined that the client meets the minimum qualifications for the position, the H.R. Liaison identifies a suitable supervisor and facilitates communication between the VRC or CRP and the supervisor.
- When all are in agreement, the Situational Assessment is completed with oversight from the VRC or CRP. An Evaluation Report is completed by the VRC or CRP with input from the supervisor.
- If the client has successfully completed the Situational Assessment, the H.R. Liaison will complete a Special Appointment Certificate for future vacancies. As vacancies occur within that agency, the H.R. Liaison will assure that any client with a Special Appointment Certificate is given consideration for an interview in the same manner as described in the direct placement above.
- If the Special Appointment Certificate is for a position that exists in other State agencies, the H.R. Liaison will forward the Special Appointment Certificate to the H.R. Liaisons in those agencies for consideration for future vacancies.

### **Ongoing Contact**

Once a placement has been made by either direct placement or Situational Assessment, the VRC or CRP will maintain contact with both the employee and the supervisor to determine whether the placement is going smoothly and will participate in the required monthly performance reviews during the trial employment period. The trial employment period will be terminated if the employee is unable to attain a level of performance that is acceptable to the hiring agency. The decision to terminate the placement will be made by the supervisor with input from both the H.R. Liaison and the VR Liaison with input from the VRC or CRP.



## State of Maine Special Appointment Program

### Special Appointment Placement Agreement

This document is to verify **(name of client/employee)** is being placed in the position of **(classification/job title)** in the **(Bureau or Division)** in the Department of **(Name of Department)**. **(Client/Employee)** will start work in this **(FT/PT)** position on **(start date)** and will be in an Acting Capacity status for up to one year. The employee will be paid at step one of the salary range **(specific hourly/annual salary)**.

**(Client/Employee's)** immediate supervisor is **(Supervisor's Name)**. During the initial acting capacity period of employment, the supervisor agrees to conduct monthly reviews of **(Client/Employee's)** performance, and will document these discussions. At any point during the initial year, when the supervisor determines the **(Client/Employee)** is performing the essential functions of the job according to established standards, the employee will be removed from Acting Capacity status, and begin the standard (usually six months) probationary period to achieve Civil Service Status. At the point when the employee begins probation, performance reviews will be conducted according to standard state policy.

The Bureau of Rehabilitation Services agrees to provide the support necessary to help the **(Client/Employee)** achieve established performance standards during the Acting Capacity period. These supports may include: consultation regarding job accommodations; purchase of assistive devices or technology; interpreter services; job coaching; technical assistance/training for supervisors and co-workers, etc. Specific services will be based on individual need. BRS has agreed to provide the following services at the onset of this placement:

#### **(Bulleted list of services authorized by VRC)**

The BRS contact person/coordinator for this placement is:

**(Name, Title)**  
**(Address)**  
**(Address)**  
**(Phone and/or TTY)**  
**(email)**

If the person above is unavailable, please contact:

**(Name, Title)**  
**(Address)**  
**(Address)**  
**(Phone and/or TTY)**  
**(email)**

The Agency Special Appointment representative for this placement is:

**(Name, Title)**  
**(Address)**  
**(Address)**  
**(Phone and/or TTY)**  
**(email)**

This agreement is made this day, **(date)**, by and between the Bureau of Rehabilitation Services, and the Maine Department of **(Name of Department/Bureau or Division)**.

\_\_\_\_\_  
**(BRS Rep. Name & Title typed)** Date: \_\_\_\_\_

\_\_\_\_\_  
**(Supervisor. Name & Title typed)** Date: \_\_\_\_\_

\_\_\_\_\_  
**(Agency SA Rep. Name & Title typed)** Date: \_\_\_\_\_

\_\_\_\_\_  
**SA Participant/Employee** Date: \_\_\_\_\_

**Cc: (Client/Employee)**  
**(VRC)**  
**(Supervisor)**  
**(HR/SC)**  
**(BRS contact)**

**(form by VJO -3-23-10)**

**Under-represented Job Classes**  
**Under-represented MaineDOT Job Classifications – 2011**  
(Require expanded Certification Register and Form)

**1 – Officials and Managers**

Highway Maint. Supt.  
Mgr. R/W Property Services  
Motor Transport Services Mgr.  
Petro/Waste Mgmt & Bldg. Supt.  
Public Service Coordinator  
Project Manager II  
Public Service Coordinator I  
Public Service Coordinator II  
Public Service Executive I  
Public Service Executive II  
Public Service Executive III  
Public Service Manager I  
Public Service Manager II  
Public Service Manager III  
Systems Group Manager  
Transportation Maint. Mgr.

**2 – Professionals**

Accountant I  
Assistant Engineer  
Auditor II  
Chemist III  
Civil Engineer II  
Civil Engineer III  
Contract/Grant Specialist  
Database Analyst  
Engineering Tech IV  
Environmental Specialist III  
Environmental Specialist IV  
Ferry Captain  
Ferry Engineer  
Ferry Port Engineer  
Field Investigator  
Financial Analyst  
Hydrogeologist  
Info System Support Mgr.  
Legal Administrator  
Librarian II  
Management Analyst II  
Media & Graphics Supervisor  
Planning & Research Associate

Planning & Research Associate II  
Programmer Analyst  
Project Manager I  
Project Manager II  
Public Relations Spec.  
Public Service Coordinator  
Public Service Coordinator I  
Public Service Coordinator III  
R/W Appraiser I  
R/W Appraiser II  
R/W Appraiser III  
Senior Contract/Grant Spec.  
Senior Database Analyst  
Senior Info Sys/Supp Spec.  
Senior Landscape Architect  
Senior Paralegal  
Senior Programmer Analyst  
Senior Staff Accountant  
Senior Technician  
Soils Research Scientist  
Supervisory Prof. Land Surveyor  
Supv. Mapping & Graphic Arts  
Supv Radio Communications  
Systems Analyst  
Systems Team Leader  
Technical Support Specialist  
Transportation Attorney  
Transportation Planning Analyst  
Transportation Planning Spec.  
Transportation Property Spec.

### **3 – Technicians**

Assistant Technician  
Cartographer  
Communications Technician  
Computer Operator  
Computer Programmer  
Data Communications Technician  
Driver Trainer  
Engineering Technician II  
Environmental Specialist II  
Field Inspector  
GIS Coordinator  
Health & Safety Program Coord.  
Highway District Manager  
Info System Support Tech.

Mapping & Graphic Arts Spec. II  
MaineDOT Federal Billing Examiner  
Photographer II  
Records Technician II  
Senior Computer Operator  
Supv. R/W Control  
Transport. Investigator Supv.  
Transportation Aide  
Transportation Comm. Operator

**7 – Skilled Craft**

Auto Mechanic I  
Auto Mechanic II  
Bridge Operator I  
Bridge Operator II  
Building & Trades Apprentice  
Building & Trades Specialist  
Electrician I  
Electrician II  
Electrician Supervisor  
Maintenance Mech. Supervisor  
Machinist  
Plumbing & Heating Technician  
Radio Mechanic  
Sign Painter  
Sign Shop Technician  
Traffic Control Electrician  
Transportation Worker II  
Transportation Worker III  
Transportation Crew Leader  
Transportation Crew Supervisor

**8 – Service and Maintenance**

Transportation Worker I  
Building Custodian  
Custodial Worker I  
Custodial Worker II  
Ferry Able Seaman  
Ferry Ordinary Seaman  
Ferry Svc. Terminal Agent  
Foundation Survey Supervisor  
Highway Laborer  
Light Equipment Operator  
Motor Transport Tech. Assistant  
Warehouse Superintendent  
Yard Supervisor

## OUTREACH CONTACT LIST

<p>Cambodia 35 Oxford St. Portland ME 04101 Contact: Sokhany Sieng 775-5073</p>	<p>Chinese Association of Maine 104 Berkshire Rd. Portland ME 04103 Contact: Cunli Jia, Vice President 775-6139</p>
<p>Maine Khmer Council Portland Housing Authority 14 Baxter Blve. Portland ME 04101 Contact: Shawna Ohm, President 773-4753 Ext. 267</p>	<p>Korean American Association 626 Congress St. Portland ME 04101 Contact: Won Bae Park, President 772-8675</p>
<p>Asian American Heritage Research Foundation Portland Multilingual Program 83 Sherman St. Portland ME 04101 Contact: Grace Valenzuela 874-8135 email: <a href="mailto:graceval@ghi.net">graceval@ghi.net</a></p>	<p>Alpha One/Wheelchairs Unlimited 127 Main Street South Portland, ME 04106 (207) 767-2189 (v/tty) (800) 640-7200 (v/tty) (207) 799-8346 - Fax <a href="http://www.alphaonenow.org">www.alphaonenow.org</a></p>
<p>Maine Families with Children From Asia 54 Saunders St. #2 Portland ME 04103 Contact: Christine Kukka (Portland) 883-1133 Contact: Coleen Quint (Lewiston/Auburn) 784-7726</p>	<p>Disability Rights Center P.O. Box 2007 Augusta ME 04338-2007 Voice and TDD: 626-2774</p>
<p>Office of Rehabilitation Services Maine Dept. of Labor 2 Anthony Ave. Augusta ME 04333 Voice: 624-5950 TTY: 1-888-755-0023</p>	<p>NAACP Portland P.O. Box 3631 Portland, ME 04104 Telephone: (207) 253-5074 Fax: (207) 253-5079 e-mail: <a href="mailto:naacpportland@hotmail.com">naacpportland@hotmail.com</a></p>

### Religion Resources

Prayer Schedules:

[www.islamicfinder.org/prayerDetail.php?zipcode=04240&country=USA&start=0&home=2011-7-6&monthly=1](http://www.islamicfinder.org/prayerDetail.php?zipcode=04240&country=USA&start=0&home=2011-7-6&monthly=1)

[www.holidays.net/ramadan/dates.htm](http://www.holidays.net/ramadan/dates.htm)

Ramadan:

[www.guideways.com/kb/article-125.html](http://www.guideways.com/kb/article-125.html)

[www.masjiduntucson.org/submission/practices/ramadan](http://www.masjiduntucson.org/submission/practices/ramadan)

Islam:

[www.bbc.co.uk/religion/religions/islam/](http://www.bbc.co.uk/religion/religions/islam/)

Books:

Somalis in Maine: Crossing Cultural Currents

Me Against My Brother: At War in Somalia, Sudan and Rwanda

The Middle of Everywhere: Helping Refugees Enter the American Community

The Spirit Catches You and You Fall Down

Born in the Big Rains: A Memoir of Somalia and Survival

Teenage Refugees from Somalia Speak Out (In Their Own Voices)

Diversity Consciousness: Opening our Minds to People, Cultures and Opportunities

## ASL Interpretation Services

### American Sign Language Interpretation Services

Statewide Contracts for ASL Interpretation Services – FY2012

On Friday, April 16th, 2010, the Division of Purchases released contract award announcement letters to vendors who submitted proposals under RFP #201001593. The purpose of this RFP was to supply all State departments and agencies with American Sign Language (ASL) interpretation services. In order to accommodate Maine's significant volume of ASL interpretation needs across all departments, multiple awards were made to interested vendors. Currently, six different vendors hold master agreements. Through these agreements, State agencies are able to efficiently schedule interpretation appointments without negotiating contracts on an individual, case-by-case basis. The hourly rate that will be charged to a State agency for these appointments will fluctuate, based on which vendor the agency schedules for a specific interpretation need.

#### Contracted Vendor Rankings

Vendor Name	Cost Rank	Overall Rank
Mary Jane Grant Interpreting	1	1
KEWL ASL	2	2
Certified Interpreting	5	3
Bangor Interpreting Agency	3	4
Professional Interpreting	4	5
Pine Tree Society	6	6

"Cost" is ranked 1 to 6 in order of **lowest overall** cost (1) to **highest overall** cost (6). **All of the State of Maine's contracted vendors offer high quality services**, but the vendors were evaluated based upon their proposal responses and any subsequent offers for reduction in cost. For an explanation of how these rankings were created, click this link:

[American Sign Language \(ASL\) Interpreting RFP Proposal Rankings](#)

#### [Vendor Pricing](#)

Click the link above to compare the Service Category Pricing offered by contracted vendors.

#### [Contacting and Scheduling an ASL Interpreter](#)

After comparing pricing and qualifications of the contracted vendors, State agencies can contact the vendor they would like to use and request an interpreter. Click the link above to access a page with contact information and instructions for creating a delivery order in AdvantageME.

#### **Contract Terms and Conditions**

These terms and conditions apply to all State of Maine contracted ASL vendors.

[Rider A – Service Specifications](#) including:

License and Certification Requirements

Cancellation Policy

Inapplicability of Previous Agreements

Minimum Guarantee for ASL Interpretation Assignments

Travel Reimbursement

[Rider B – Standard Terms and Conditions](#)

Vendor Pricing established in paragraph 2

[HIPAA Business Associate Agreement](#)

Copies of the signed agreements are attached to the Master Agreement in AdvantageME

Refer to [Contacting and Scheduling an ASL Interpreter](#) for Master Agreement numbers

#### **Opportunities for Municipalities and School Districts**

The State of Maine, Division of Purchases is committed to providing purchasing opportunities for municipalities, political subdivisions, school districts, and other *public* entities. We encourage our contractors to make their services available to these entities through separate contracts but under the same terms offered to the State of Maine. For questions concerning contracting with any of the State of Maine's contracted ASL vendors, contact the Division of Purchases at (207) 624-7340.

## Foreign Language Interpretation / Translation Services

For State of Maine agencies, the Division of Purchases has contracted with providers of foreign language interpretation and translation services. The link to these providers is: <http://www.maine.gov/purchases/agencyinfo/foreignlanguageinterpretationtranslationservices.html>

- [Interpretation / Translation Services - Pacific Interpreters](#) \* Renewed 10/14/2009
- [Pacific Interpreters - Amendment](#) \* **Amendment per minute price reduction** \* Amended 7/12/2010
- [Interpretation / Translation Services - Certified Languages International](#) \* Renewed 10/19/2009
- [On-Site Interpretation Services - Catholic Charities of Maine - Contract](#) \* New 8/1/2010
- [On-Site Interpretation Services - Maine State Interpreters - Contract](#) \* New 8/1/2010
- [CTS LanguageLink](#) \* Renewed 7/12/2010