RMS Partners with Members to Promote Safety

The Safety Enhancement Grant and Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries.

The Maine Municipal Association has been awarding safety grants to Members of their Workers Compensation Fund since 1999. The Grant program has assisted municipalities by bestowing $1.8 million through funding of 1428 Safety Enhancement Grants and 307 Scholarship Grants.

Welcome New Members!

**Property & Casualty Pool:**
- Town of Cornish
- Glenwood Plantation
- Mid-Coast Regional Planning Commission
- Saint Agatha

**Unemployment Compensation:**
- Town of Dixfield
- Municipal Review Committee

**Workers Compensation:**
- AOS 92-Kennebec Valley Consolidated Schools
- Glenwood Plantation
- Mid-Coast Regional Planning Commission
- Municipal Review Committee
- Regional School Unit No. 12
- Regional School Unit No. 16
- Regional School Unit No. 23
- Regional School Unit No. 25
- Regional School Unit No. 34
- Regional School Unit No. 39

**IMPORTANT CHANGE**

The MMA Property & Casualty Pool announces a New Boiler & Machinery Insurance Company...

**TRAVELERS**

Boiler & Machinery Equipment Breakdown Effective 7/1/09

For jurisdictional (state required) inspections, new installations or old replacements, please call the customer service hotline:

1-800-425-4119 or email: boilinsp@travelers.com

or

MMA Risk Management Services @ 1-800-590-5583
What is an Independent Contractor?

An independent contractor provides service(s) to employers under agreements with employers. In determining independent contractor status, all government agencies consider the amount of direction and control the business has on the individuals performing work. In general, if the business supplies training or equipment or tells the individuals when and how to do the job, the individuals are probably employees. Genuine independent contractors usually use their own tools and work their own schedule.

Independent Contractor or Employee: Why Does it Matter?

Being classified as an employee or as an independent contractor affects the taxes you pay and how you pay them. It affects eligibility for unemployment and workers’ compensation, Medicare, overtime, and other benefits and protections. Generally, employers must classify those performing work under their direction and control as employees. Others may be able to be classified as independent contractors.

What are the Rules about Independent Contractors?

There are different rules and tests used by government agencies to determine independent contractor status, as different agencies are responsible for separate aspects of law. For example, the Internal Revenue Service (IRS) and Maine Revenue Services (MRS) refer to “common law rules.” Unemployment Compensation uses the “ABC” test and Workers’ Compensation considers other factors. Because agencies have different ways to determine independent contractor status, a business may have to pay unemployment taxes and/or carry workers’ compensation insurance even if IRS or Maine Revenue Services determine that, for income tax purposes, individuals may be independent contractors.

The guidelines of each agency are too detailed for one brochure. It is extremely important to understand how different laws may affect you. Employers should ask each agency if they consider individuals as employees or independent contractors before the work begins.

If your business uses independent contractors, you:

- May be liable for back taxes, wages, and/or penalties if you misclassify employees as independent contractors
- Should consult each of the governmental agencies listed in this brochure to determine independent contractor/employee status
- May have to carry workers’ compensation insurance
- May have to pay unemployment taxes
- Must ensure that foreign workers are legal and documented
- Do not withhold taxes or Medicare insurance

If you work as an independent contractor, you:

- Pay your own taxes
- May not be entitled to unemployment insurance compensation or workers’ compensation
- May not be protected by wage payment and recordkeeping laws, such as minimum wage and overtime
- Direct and control your work and the work of your employees

Agencies who can answer questions about independent contractor issues.

Maine Department of Labor
P.O. Box 259
Augusta, ME 04332-0259
Tel: (207) 623-7900, Fax: (207) 623-7938
TTY: 1-800-794-1110
e-mail: webmaster.bls@maine.gov
web site: www.maine.gov/labor

Maine Workers’ Compensation Board
Coverage Division
27 State House Station
Augusta, ME 04333-0027
Tel: (207) 287-7071, Fax: (207) 287-5895
TTY: (207) 287-6119
e-mail: Linda.Larrabee@maine.gov
web site: www.maine.gov/wcb

Maine Revenue Service
Income/Estate Tax Division
24 State House Station
Augusta, ME 04333
Tel: (207) 626-8475, Fax: (207) 624-9694
TTY: 1-888-577-6690
e-mail: withholding.tax@maine.gov
web site: www.maine.gov/revenue

U.S. Department of Labor
Wage and Hour Division
100 Middle Street Plaza
Portland, ME 04101
Tel: (207) 780-3344
Fax: (207) 780-3783
e-mail: claus.james@dol.gov
P.O. Box 1356
Bangor, ME 04401
Tel: (207) 945-0330
Fax: (207) 945-0332
e-mail: collins.matthew@dol.gov
web site: www.dol.gov

U.S. Internal Revenue Service
SS-8 Unit
SS-8 Coordinator/Site Manager
40 Lakemont Road
Newport, VT 05855
Tel: (802) 334-0252
Fax: (802) 334-5607
web site: www.irs.gov

Disclaimer: This brochure provides brief information and is not a substitute for laws or formal interpretations, which can be obtained from the agencies listed.
Frequently Asked Questions about Independent Contractors

1. How can I find out how and when I have to pay taxes?  
   Contact the Internal Revenue Service (IRS), Maine Revenue Service (MRS), and Maine Department of Labor Bureau of Unemployment Compensation (contact information listed on front page).

2. What kind of wage statement should employees get or businesses provide?  
   Employees receive a W-2 wage statement. Independent contractors receive a 1099-nonwage payment statement. If you’re not sure which you should get (or provide), contact the IRS.

3. Should businesses have written contracts with independent contractors?  
   Written contracts can show the intent of both parties before the beginning of their working relationship. They may be useful in determining independent contractor status. The Workers’ Compensation Board requires a written contract to apply for determination of independent contractor status.

4. Can General Contractors put people to work without putting them on the payroll?  
   If IRS determines the workers are independent contractors, they do not have to be on the payroll for income tax purposes. However, even if IRS determines the workers are independent contractors, another agency may consider them employees. So, employers may have to buy workers’ compensation insurance and pay unemployment tax. To avoid paying back taxes and penalties, businesses should contact each agency before workers start a job.

5. How can businesses employ temporary workers from other countries when they are unable to find sufficient U.S. workers?  
   The Alien Labor Certification program of the Maine Department of Labor provides assistance in the hiring of temporary foreign workers.

6. How can employers learn if they need to purchase workers’ compensation insurance?  
   Contact the Workers’ Compensation Board.

7. Do woodlot owners need to purchase workers’ compensation insurance for workers who are harvesting trees?  
   A woodlot owner who gets a “Conclusive Predetermination” from the Workers’ Compensation Board or contracts with a wood harvester who has an approved Certificate of Independent Status does not have to carry workers’ compensation insurance for that harvester.

8. How do harvesters obtain proof of independent contractor status?  
   Apply to the Workers’ Compensation Board for a Certificate of Independent Status to confirm independent contractor status.

9. What agency investigates wage or overtime issues for employees?  
   The Maine Department of Labor and the U.S. Department of Labor Wage and Hour Division investigate complaints.

10. What protection do independent contractors have if injured on the job?  
    Contact the Workers’ Compensation Board to learn about rights.

11. Can independent contractors get unemployment compensation?  
    The Maine Department of Labor, Bureau of Unemployment Compensation will determine coverage.

If you don’t know all the responsibilities of being—or contracting with—an independent contractor, find out now so you can make the right decisions and avoid legal and financial problems down the road.

Disclaimer: This brochure provides brief information and is not a substitute for laws or formal interpretations, which can be obtained from the agencies listed.

Rev. 07/07
We would like to congratulate the May 2009 Grant recipients

Town of Albion
Town of Arrowsic
City of Augusta
City of Bath
Belfast Water District
Town of Belgrade
Berwick Sewer District
City of Biddeford
Town of Bowdoinham
City of Brewer
Town of Bucksport
Town of Buxton
Town of Camden
Town of Cape Elizabeth
Carthage Fire Dept.
Central Penobscot Solid Waste
Town of Charleston
Town of Chelsea
Town of China
Aroostook County Comm.
Cumberland County Civic Center
Town of Damariscotta
Town of Dixfield
Town of Dixmont
Town of Etna
Town of Exeter
Town of Fairfield
Town of Falmouth
Town of Farmington
Town of Fort Kent
Town of Frenchville
Town of Friendship
Town of Gray
Great Salt Bay Sanitary District
Greater Augusta Utilities District
Town of Hampden
Hampden Water District
Town of Harrison
Town of Hermon
Hermon Volunteer Rescue & Fire
Town of Hiram
Town of Hodgdon
Town of Jackman
Town of Jay
Town of Kenduskeag
Town of Kennebunk
Knox County Comm.
Town of Lamoine
Town of Levant
Town of Liberty
Limestone Water & Sewer District
Lincoln County Comm.
Lincoln Water District
Town of Linneus
Town of Litchfield
Town of Long Island
Town of Madison
Mapleton/Chapman/Castlehill
Town of Medway
Town of Milbridge
Town of Millinocket
Town of Mount Vernon
Northern Oxford Reg Amb Service
Town of Orono
Town of Palmyra
Penobscot County Comm.
Town of Phillips
Piscataquis County Comm.
City of Pownal
Town of Rangeley
Town of Readfield
Town of Richmond
City of Rockland
Town of Rumford
Town of Sabattus
City of Saco
Sagadahoc County Comm.
Town of Scarborough
Town of Searsport
Searsport Water District
Town of Sedgwick
Town of Sherman
Somerset County Comm
South Berwick Water District
South Portland Housing Authority
South Portland School
Town of South Thomaston
Town of Stockholm
Town of Stoneham
Town of Thorndike
Town of Vassalboro
Town of Wells
Town of West Paris
Town of Wilton
Town of Winslow
Town of Winthrop
Town of Woolwich
Yarmouth Fire & Rescue

Ed MacDonald, Loss Control Manager for Maine Municipal Association, advises that the program received 147 applications for the May 2009 grant period, and that $128,202.37 was awarded. Grants are awarded in May and October each year.

The Grant Recipients have put their funds to use by purchasing such equipment as Gas Detectors, Ergonomics Devices, Lockout / Tagout Station, Training Aids, Material Handling Equipment, as well as Traffic Control Signage to assist in reducing the frequency and severity of workplace injuries.

For more information about any of the Maine Municipal Association Risk Management Service programs, including Safety Enhancement Grants eligibility and applications, please visit our website at www.memun.org and click on the Risk Management Services link, or call us at 1-800-590-5583.

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.