

## MEMORANDUM

**To:** Gubernatorial Transition Team  
**From:** Tom Cheney, Commissioner, Department of Human Resources  
**Date:** November 9, 2016  
**Subject:** Personnel Transition

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In order to provide for an orderly transition from a human resources perspective, the Governor-elect and Transition Team will need to focus immediate attention on the items detailed below. Secretary of Administration, Trey Martin, and I will be the points of contact on personnel related matters.

### **Transition Team**

#### *Budget*

The gubernatorial transition will run from November 9, 2016 through Inauguration Day, January 5, 2017. The Legislature has earmarked \$65,000 from the General Fund to pay for the transition. These funds are available to cover the Governor-elect's salary, compensation for Transition Team members, and other necessary expenditures. Questions related to transition funding should be directed to the Commissioner of Department of Finance and Management, Andy Pallito.

#### *Compensation*

We recommend hiring the Governor-elect and Transition Team members as temporary employees, the mechanics of which are described below:

*Governor-elect* – The Governor-elect will be hired into a temporary “Governor-elect” position. As per 3 V.S.A. 1002(b) the Governor-elect is entitled to 70% of the Governor’s salary. If the Governor-elect is a current state employee, he or she will continue receiving his or her current salary, and the difference in total compensation up to 70% of the Governor’s salary will be paid through the “Governor-elect” temporary position. The Governor-elect will not be offered benefits during the transition, though current benefits will be maintained if the Governor-elect is a current state employee.

*Transition Team* – Staff hired to assist in the transition will be hired as temporary “Transition Team Staff.” Hourly rates for each Team member will be set in coordination with the Department of Human Resources (DHR). Time reports will be propagated automatically, and bi-

weekly payment will be provided through direct deposit. Transition Team members will not be offered benefits during the transition.

## **Exempt Appointments**

Numerous positions within state government are “exempt appointments” which serve at the pleasure of certain office holders called “Appointing Authorities”. For example, gubernatorial appointees such as Secretaries and Commissioners, are exempt appointments, as are deputy secretaries and deputy commissioners, principal assistants, executive directors, executive assistants, private secretaries, and attorneys who may be appointed by Secretaries and Commissioners.

### ***List of Exempt Appointments***

In order to provide the incoming administration with clarity as to appointments, a spreadsheet will be provided that will contain a listing appointed exempt leadership that are created by a specific statutory authority and a listing including all appointed exempts who are in a specific exempt pay plan. These lists should constitute a starting point for the incoming administration to make decisions regarding appointments to key positions.

Both lists, by agency and department, contain the position title, the statutory cite, and appointing and approval authority. In addition, the lists describe the salary group plan and, if applicable, the statutory minimum and maximum annual salary for the position and the authority for salary approval. The lists also contain the incumbent’s name and the current salary.

## **Fair Notice to Outgoing Exempt Appointees**

Under state law 32 V.S.A § 1271 the incoming administration may terminate current exempt appointees effective no earlier than January 6, 2017. The Governor-elect must provide at least 30 work days’ notice of termination or provide equivalent pay, or some combination of the two, to outgoing exempt appointees. Therefore, if the Governor-elect wishes to make terminations effective January 6, 2017, he or she must provide notice no later than November 21, 2017. More or less notice may be given, but if less notice is given, appointments that end effective January 6, 2017, will require a cash pay-out. Deputy commissioners and other exempt appointees can provide continuity during a transition, therefore we recommend consideration of those positions only after the relevant department or agency heads have been appointed.

To assist the Transition Team in this process, DHR has developed several template letters and informational documents (attached) to be used for communication with current exempt appointees:

- **Template letter from the Governor-elect** to select exempt appointees providing fair notice and requesting his or her letter of resignation. The letter also notes how an incumbent should communicate with the Transition Team if he or she is interested in being considered for retention in the incoming administration.
- **Template resignation letter** from a current appointee to the Governor-elect.

- **Offboarding fact sheet** provides departing exempt employees information regarding continuation and/or cessation of the benefits associated with State employment, as well as other pertinent off-boarding information.
- **FAQ from the Retirement Office** provides information regarding what happens to an employee's defined benefit or defined contribution retirement plans upon departure.

### **Unemployment Benefits for Outgoing Exempt Appointees**

An exempt employee who resigns at the request of the incoming administration should be eligible for unemployment benefits. Attached you will find a letter from Vermont Department of Labor outlining eligibility requirements for unemployment benefits and the process for applying.

### **Exempt Appointees Returning to the Classified Service**

Exempt appointees who took a formal leave of absence from the classified service to accept an exempt position after at least 10 years of classified service have a right to return to a classified position (3 V.S.A. § 220). It is the responsibility of the Commissioner of Human Resources, in coordination with the relevant appointing authorities, to offer a classified position that meets certain requirements within 30 calendar days of the employee's separation from the exempt position.

### **Appointing Agency/Department Heads**

As the Governor-elect and the Transition Team prepare to appoint members of the incoming cabinet, coordination with DHR is vital. DHR requests that the DHR point of contact be notified as early as possible, but no less than 24 hours prior to a public announcement, so that certain requirements can be met before the appointment takes effect. For example, tax compliance check, salary verification, and background check if required. Attached is a form which can be used to relay new appointee information to DHR, which will expedite this process.

### **Appointing Agency/Department Leadership Teams**

As noted above, each agency or department has a number of exempt positions from deputy commissioner, to private secretary. Once a department head is named, DHR will provide a list of exempt positions he or she is responsible for filling, including information regarding the incumbent. Similar to the appointment of department heads, DHR should be notified prior to public announcement of any exempt appointee for pre-employment processing.

### **Compensation**

The compensation for elected officials is fixed by statute (32 V.S.A § 1003(a)). The Governor has the authority to establish salary levels for all agency and department heads within statutory limits (32 V.S.A. § 1003(b)(1)). The salary of all other exempt employees who are not in an exempt pay plan (e.g., Executive Director Pay Plan, Attorney Pay Plan) is subject to the approval of the Governor or designee, typically the Secretary of Administration. The salary of exempt

employees who are governed by a pay plan are subject to the approval of the Commissioner of Human Resources as the Governor's designee.

### **Onboarding**

Once an appointee has been named, the HR Manager assigned to the relevant agency or department will contact him or her to complete the remaining required employment documents and complete an online new employee orientation. In addition, the appointee will receive DHR's Exempt Officials Handbook which provides basic information about state government, its operations, and state employee benefits.

### **Training for Appointees**

Agency and Department heads and deputies will be offered, through DHR's Center for Achievement in Public Service (CAPS), an executive-level training at a time deemed appropriate by the new administration. The training will provide a high-level overview of the responsibilities of managers in state government.