

County of Santa Clara

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DATE: June 16, 2017

TO: Board of Supervisors
Jeffery V. Smith M.D, J.D., County Executive

FROM: Kevin Armstrong
Interim Manager, Office of Sustainability

SUBJECT: Report Back on Local Administration of Residential PACE (Property Assessed Clean Energy) Programs

BACKGROUND

At the March 16 HLUET meeting, the Administration was directed to report back, as follows:

1. Investigate and report back on the qualification of local governments to administer PACE programs, including the eligibility of regional agencies (Joint Powers Authorities [JPA], Metropolitan Planning Organizations [MPO]);
2. Report back on contractor standards employed by local government PACE administrators.

Property Assessed Clean Energy (PACE) programs provide home and business owners with a financing option to underwrite energy efficiency retrofits and renewable energy installations. PACE programs allow for the financing of these types of improvements without requiring a down payment or payment of the upfront capital cost of the improvements. The property owner repays the cost of the improvements through his/her property tax bills over time. PACE programs are authorized in California through Assembly Bill 811 (AB 811, 2008) and Senate Bill 555 (SB 55, 2011). There are both commercial and residential PACE programs. Residential PACE programs that have been or are being deployed throughout the state, include but are not limited to, CAFEfirst, Home Energy Renovation Opportunity (HERO), Figtree, Ygrene, AllianceNRG, and PACEFunding.

Office of Sustainability staff presented a semi-annual update on sustainability programs at the March 16, 2017 HLUET Committee meeting. As part of the discussion around the update report, HLUET chairperson Cortese asked several questions regarding local government administration of PACE programs.

Statutory Authority to Administer PACE Programs

State legislation (AB 811 in 2008) enables the use of “contractual assessments” for qualifying distributed generation energy production, energy efficiency, and water efficiency improvements on private property, through updates to the Improvement Act of 1911 (Division 7 of the California Streets and Highways Code). The code provides the legislative body of any public agency with the authority to finance the installation of permanently fixed qualifying improvements. As such, cities, counties, Joint Powers Authorities (JPAs), Metropolitan Planning Organizations (MPOs), and special districts are all qualified to sponsor and administer PACE programs.

Regional Agency Administration of PACE Programs

Currently in California, the majority of PACE programs are sponsored by Joint Powers Authorities, such as, the California Statewide Communities Development Authority (CSCDA), the Golden State Finance Authority (GSFA), the California Enterprise Development Authority (CEDA), and the Western Riverside and San Bernardino Councils of Governments (WRCOG & SANBAG). Whereas the first three examples are historically focused on providing financing to their member agencies, WRCOG and SANBAG are regional planning agencies similar to the Association of Bay Area Governments (ABAG). These JPA-sponsored PACE programs are then administered by private firms, such as, Renovate America (HERO program administrator, primarily for WRCOG) and Renew Financial (formerly Renewable Funding, CAFE administrator for CSCDA).

In the Bay Area, the regional agency with the most involvement in PACE has been ABAG, which has participated in a couple ways. ABAG’s PACE efforts have focused more on Commercial PACE education and outreach through the Bay Area Renewable Energy Network (BayREN) as well as consumer education and disclosure through a Regional Collaborative Services Agreement (RCSA) among residential PACE providers. However, ABAG has not shown interest in developing and administering an independent PACE program, possibly due to the Bay Area presence of several third-party PACE administrators, notably Renew Financial, which sprung from the FIRST program in Berkeley and was a strong early proponent of PACE financing.

The exceptions to the above JPA sponsorship of PACE programs are three locally administered programs found in Los Angeles County (LAPACE), Sonoma County (Sonoma Energy Independence), and Placer County (MPOWER). **In the case of these counties, the PACE program covers both the unincorporated areas as well as virtually every city within each county.** (Sonoma and Placer cover 100% of their cities; Los Angeles covers 87 of 88 cities, with the exception of Vernon). In Sonoma and Placer counties, the local Treasurer-Tax Collector acts as the administrator, while LA County administers its program jointly with HERO and Renew Financial. The City of Berkeley initially ran a pilot PACE program called Berkeley FIRST, but has since transitioned to a third-party administration model through CAFE and HERO.

Contractor Standards Used by Locally Administered PACE Programs

For the two wholly locally administered PACE programs in Sonoma and Placer counties, there are additional contractor standards (References 1 & 2 below, with links) required for participation in the program. In Sonoma, the standards include a local bid requirement, specific

insurance coverage amounts, and employee requirements. In Placer, the requirements are similar, focusing on licensing (state and local) and insurance. LAPACE does not require any additional standards to be met beyond those generally utilized by its co-administrators, HERO and CAFE.

Potential Costs to Locally Administer a PACE Program within Santa Clara County

In March, 2010, prior to the release of FHFA objections to PACE lien status, County staff presented an analysis of the ongoing and startup cost to the General Fund of locally administering a countywide (i.e., including communities within the county, not just the unincorporated areas) PACE program (termed AB 811 programs at the time) under a variety of scenarios, with different bonding assumptions and program sizes. The scenarios all shared one-time start-up and annual program costs of \$475,000 and \$350,000, respectively. Estimates of the 10-year impact to the General Fund ranged from a small surplus of \$1.36 million, to a deficit (i.e. a County contribution to the program) of up to \$65.36 million. Based on this analysis, the County AB 811 working group recommended deferring the establishment of a financing district and continuing to monitor developments in the PACE market.

ADDITIONAL RESOURCES

- 1) Sonoma County Energy Independence Program Contractor Standards ([link](#))
- 2) MPOWER PACE Program Contractor Standards ([link](#))
- 3) March 18, 2010 FGOC (Item 8) – Policy Issues to Develop a County AB 811 Energy Efficiency Program ([link](#))



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Contractors

Contractors: Welcome to mPOWER!

Contractors are an important component of the energy and water efficiency upgrade process. To maximize the benefits of the mPOWER Program, contractors should know exactly how the program works.

Contractors Requirements

mPOWER requires contractors have the following:

- Possess a license in good standing with the California State Contractor's License Board
- Possess a valid business license for the jurisdiction (city/county) in which the contractor operates their business and in which they install improvements.
- Have workers compensation insurance
- Have liability insurance for the type of work being performed
- Provide a complete bid in writing
- Provide an [Equipment Specifications Form](#) with the bid. *Please complete online, print and then submit.*

Please note: All improvements are subject to either a building permit or validation inspection for non-permitted improvements from the appropriate jurisdictional building department in which the improvements are being installed.

Direct Disbursement (Payment) Requirements

In order to receive payment directly from mPOWER, contractors need the following:

- Attend an [information seminar](#) (at least once – list of dates on Homepage under "events")
- Complete and send [Form W9](#)
- Complete and send [Form 590 CA](#).

mPOWER disburses every Thursday except for County Holidays! Contact us for invoice due dates. For seminar information please refer to our Events calendar, call our office at (530) 889-4174 or email us at mpower@placer.ca.gov for more information.

Contractor Code of Conduct

mPOWER, as a government program, expects contractors to follow a [code of conduct](#).

✓ Two Ways To Apply Today!

1. Download a pdf of the application, complete and submit to the address below.
2. Visit our offices, talk to a program specialist and get your application at our address below.

Address:

mPOWER
2976 Richardson Drive
Auburn, CA 95603

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Energy Independence Program

Contractor Information Sheet

BUSINESS NAME	DBA (MUST BE REGISTERED WITH CSLB)
OWNER NAME	PRIMARY CONTACT
BUSINESS STREET ADDRESS	
MAILING ADDRESS	
PRIMARY PHONE NUMBER	PRIMARY FAX NUMBER
EMAIL ADDRESS	WEBSITE URL (IF APPLICABLE)
Do you employ at least one full-time employee at this business? <input type="checkbox"/> Yes <input type="checkbox"/> No 	
CONTRACTOR LICENSE NO	LICENSE CLASSIFICATION(S)

Services offered:

- | | | |
|---|---|---|
| <input type="checkbox"/> General Contractor (B)

<input type="checkbox"/> Electrical

<input type="checkbox"/> Pool, Hot Tub

<input type="checkbox"/> Solar Thermal

<input type="checkbox"/> Water Heating

<input type="checkbox"/> Insulation

<input type="checkbox"/> Rainwater Cistern | <input type="checkbox"/> Whole House Energy Audit

<input type="checkbox"/> Lighting

<input type="checkbox"/> Roofing

<input type="checkbox"/> Ventilation

<input type="checkbox"/> Windows, Doors, Skylights

<input type="checkbox"/> Exterior Siding

<input type="checkbox"/> Outdoor Irrigation and Controllers | <input type="checkbox"/> Heating, Ventilation, Air Conditioning (HVAC)

<input type="checkbox"/> Renewable Generation, other than solar electric

<input type="checkbox"/> Solar Electric

<input type="checkbox"/> Water Conservation

<input type="checkbox"/> Weatherstripping and Air Sealing

<input type="checkbox"/> Plumbing

<input type="checkbox"/> Whole House Rating |
|---|---|---|

Energy Independence Program

Contractor Standards and Information

To ensure that the Energy Independence Program protects the interests of the County and its residents, individual contractors must meet the following minimum criteria:

Local Bid Requirement:

If a participating contractor does not operate a business office within Sonoma County, the property owner applicant must obtain at least two bids. One bid must be from a local contractor. If the participating contractor maintains a local business office, only one bid is necessary. Local business address is defined as being maintained by the parent company and open to the general public. Residential addresses are unable to be qualified as a local unless the home is occupied by a sole proprietor listed on the contractor's CSLB license.

Compliance with Program Requirements:

Contractors shall be aware of and comply with the requirements set out in the [Energy Independence Program Administrative Guidelines](#) and Program Policies.

Liability Insurance:

Contractors shall possess \$1,000,000 minimum coverage each for Commercial General Liability insurance for the work to be performed, to be maintained in full force and effect during the period of performance.

Workers' Compensation:

Contractor shall, prior to initiating any work on an Energy Independence Program funded project, and at all times during its activities with any such project, obtain and keep in full force and effect California Statutory Workers' Compensation insurance (at or above the minimum limit required by law) for all persons whom the Contractor employs in carrying out its activities for which Energy Independence Program funding is anticipated.

Employee Requirements:

Contractors shall not knowingly assign any worker to a Sonoma County customer worksite who has been convicted of a felony within the last 7 years, or who is impaired by illegal drugs or alcohol, excluding any lawfully prescribed medications.

Contractors shall use their best efforts to hire workers residing in Sonoma County for all Energy Independence Program funded projects.

Notice to Proceed:

Work may not begin on an Energy Independence Program funded project until at least 3 business days after the Assessment Contract has been signed by the applicant and the County of Sonoma or its representative, and the applicant has received the Notice to Proceed.

Permits:

All improvements, including those normally exempt from permit requirements, will require a permit from the local jurisdiction (town, city, unincorporated area). All work funding with PACE financing will require a copy of the finalized permit paperwork at the time of disbursement.

Payment:

Upon submission of all necessary documentation, payments of the Energy Independence Program funds shall be made directly to the applicant, not the contractor, following Energy Independence Program disbursement procedures.

Licensing and Certification:

Contractors must at all times while working on an Energy Independence Program funded project, be in compliance with all applicable state and local licensing laws and requirements, be in good standing with the [Contractors State License Board](#) (CSLB), and possess the license or licenses required by the state of California for the specific improvements they install and any other work they perform as specified in the California Business & Professions Code, Division 3, Chapter 9, Article 4.

Contractors shall obtain a valid business license in any city where they perform work where a business license is required, in accordance with applicable codes and regulation of each city.

[Home Improvement Salespersons](#) (HIS) must at all times, while soliciting work for an Energy Independence Program funded project, be registered with the Contractors State License Board (CSLB) as an HIS. The HIS may be exempt from registration if listed as a part of the CSLB's official personnel records for the contractor's license.

Payment of Subcontractors:

Contractor shall timely pay all subcontractors and vendors any undisputed amounts due, and shall take all steps necessary to prevent mechanics liens from being enforced against Energy Independence Program customers because of Contractor's failure to pay a subcontractor or vendor.

Representations:

Contractor and its representatives, employees and agents must not represent themselves as agents, representatives, contractors, subcontractors, or employees of the Energy Independence Program, or claim association or affiliation with the Energy Independence Program. Further, Contractor shall not make false claims about performance or savings, nor engage in fraudulent or deceitful conduct in the sale or

installation of Energy Independence Program funded projects. Contractor and its representatives, employees, and agents must not imply through discussion, calculation methodologies, or otherwise, that the full assessment payment amount may be tax deductible.

The Energy Independence Program reserves the right to deny funding for any project to be performed by a Contractor who has not agreed to these terms and conditions, or who has failed to abide by these standards. At the discretion of the Program Administrator, a Contractor may be given an opportunity to cure an identified deficiency before being banned from participation in Energy Independence Program funded projects.

DATE

CONTRACTOR SIGNATURE

NAME (PLEASE PRINT)

BUSINESS NAME

Please return with:

- ☐ Copy of General Liability Insurance
- ☐ Copy of Contractor's License

Energy Independence Program
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