Municipal Webinar 1: PACE and Open Market Financing

Questions and Answers

Q: What do you mean by "10% efficiency for Renewables"?

A: On July 1, 2011, the Sonoma County Energy Independence Program (SCEIP) began requiring that applicants requesting PACE financing for renewable energy projects (i.e. solar pv) demonstrate at least a 10% increase in energy efficiency on their property prior to SCEIP funding the renewable project. This requirement is waived for residential properties testing in with a HERSII rating of 85 or better. SCEIP will also finance the 10% efficiency improvements, if desired by the applicant

Q: What is the ratio of administrative costs to total cost of improvements?

A: This ratio is difficult to quantify because the Sonoma County program has incurred periodically large administrative costs due to its on-going litigation with the FHFA. Those costs removed, this ratio is approximately 4%.

Q: Does House bill HR2599 require consent from the mortgage holder?

A: For non-residential properties, the current version of the bill in the House of Representatives requires authorization from the property's existing mortgage lender. On the residential side, all that is required is notice to the lender.

Q: For those of us that are still working to educate and pass state-enabling legislation, are there any online forums where we can share resources and best practices to help one another?

A: Currently, the state-enabling legislation adopted by the 27 participating states differs from state to state due to different state constitutions, etc. In the meantime, the SCEIP website (www.sonomacountyenergy.org) has a landing page specifically for municipalities located under the "Resources" tab. This dedicated page is evolving to provide further resources, links and sample program documents, templates and, in late March 2012, a "how-to" guide. Additionally, the PACENow website (www.pacenow.org) posts legislative and general PACE news, resources and links to other programs such as the San Francisco County and LA County non-residential PACE programs. Contact information for exchanging questions and information is provided on both websites.

Q: Where can I find the PACE commercial map?

A: It is located on the PACENow website or you can download the pdf of the slides from this webinar, located on the "Resources for Municipalities" page of the SCEIP website (see answer to question above for addresses).

Q: Have any commercial lenders given authorization to allow PACE financing?

A: Yes, twenty different lenders have provided lender acknowledgement for projects funded by SCEIP alone, in addition to lenders working with other PACE programs throughout California such as Palm Desert, Placer County and Los Angeles County.

Q: Is the PACE loan senior to bank financing?

A: PACE financing is not a loan; it is a voluntary contractual assessment. Under California law, a contractual assessment lien has the same priority as property taxes and other assessments and is senior to bank liens; however, in the event of a default, only the delinquent portion, not the entire PACE assessment would need to be paid at the time of the foreclosure. The remainder of the assessment remains a lien on the property, assumed by the purchaser. There are some different models in some states, such as Vermont and Maine, where pursuant to state statute the PACE lien is subordinated to the first mortgage. One would need to review the specifics of the authorizing statutes on the extent of the subordination.

Q: What is the timeline for bringing HR2599 to the floor?

A: The bill was introduced in the 112^{th} Congress, which does not end until December 31, 2012, and so HR2599 remains active until that time. Unless withdrawn, HR2599 may be voted on or attached to another bill that gets voted on by Congress until December 31, 2012. Currently the bill is in the House Financial Services Committee Capital Markets and Government Sponsored Entities sub-committee, which has not set a timeline for the hearing process required to get it out of committee. The bill has not yet been introduced into the Senate.

The following questions refer specifically to the 1.1 MW Sonoma Mountain Village solar project that was financed through a partnership between Sonoma County and Clean Fund.

Q: Why did PACE finance only 30% of the project cost?

A: Sonoma County was willing to finance 100% of the project with PACE financing, but the lender set this criterion due to the long payback period for solar.

Q: Is the $1.6 million PACE collateral co-mingled or segregated from the balance of financing? (Does PACE have just one building or 1/3 share of total project?)

A: The 30% PACE financing is not segregated from the balance of financing; the assessment is secured by the entire property.

Q: The banks that we are speaking to want to look at the tax returns of the building owner. Was that the case with the lender on the Sonoma Mountain Village project?

A: This was not the case for the Sonoma Mountain Village project, but because there are a variety of third party project financing models, it is expected that there will be a variety of requests from lenders in order to guarantee that the property tax will be paid.

Q: Could you please talk a bit about the role of the county/program regarding 1) backing of the bonds, and 2) in the case where the property owner defaults on assessment payments in the open market model?

A: 1) The PACE bonds sold to Clean Fund were not backed by the County other than having the County provide the annual collection system through the property tax process. No financial guarantee is provided. 2) The County does operate a tax delinquency program by which it treats all property tax and assessments as collected each year for purposes of transferring funds to the specific financing districts and public agencies throughout the County. The County does have responsibility for collections and the delinquency process and will initiate foreclosure proceedings as delinquencies arise.

Q: Did the bank want [Sonoma County] to guarantee the bond? If so, can the reserve fund act as that guarantee?

A: No guarantee was required in this case because the bond was purchased directly by the third party investor. However, under a different open market finance model, the reserve fund could act as a guarantee.

Q: As a result of this transaction, does Bank of America now have a national team dealing with PACE matters?

A: The Bank of America is working on a case-by-case basis as far as we know. Although there were extensive conversations related to this particular transaction, the bank made it very clear that they would be looking at each project individually to determine the best course of action on the consent process.

Q: Did the solar project qualify for the 1603 cash grant?

A: Yes.