



September 27, 2021

In connection with this first pilot phase of the NYC Accelerator PACE Financing Program (the “Program”), and further to the Request for Qualifications for Qualified Lenders released on April 22, 2021 (the “RFQ”) and the Program Guidelines released on April 22, 2021 (the “Guidelines”), the answers summarized below are based on questions frequently raised by prospective Program lenders and other stakeholders. Except as otherwise indicated, capitalized terms used but not defined in this document have the meanings given in the RFQ. This document, along with the RFQ, the Guidelines and other Program documents are available at nyc.gov/PACE (the “Program Website”).

Please note, the Guidelines, the RFQ, and/or other Program documents are expected to be updated as necessary in the near future to more directly address the areas of concern described below and any other necessary changes. Updated versions of such Program documents will be posted to the Program Website when available.

Frequently Asked Questions; September 27, 2021

1. How is the creditworthiness of C-PACE lenders seeking to become Qualified Lenders evaluated?

Exhibit A to the RFQ contains the Qualification Requirements for all organizations seeking to become Qualified Lenders. Requirement #7 states that “*the organization’s annual financial statement(s) should indicate the creditworthiness of the Applicant (or a guarantor of the Applicant)*”.

As described more fully in paragraph 10 of Section 5.1.1 of the RFQ, to enable the Administrator to determine whether this requirement is satisfied, the Applicant should provide 3 years of audited financial statements. If, however, such audited financial statements for the Applicant are not available, the Applicant may provide 3 years of unaudited financial statements certified by the Applicant’s Chief Financial Officer. (Upon request, the Administrator will provide the form of CFO certification.)

The Administrator evaluates an Applicant’s creditworthiness based on various factors including its ability to cover operating expenses, adequacy of equity capitalization, and liquidity. If the Administrator determines that the financial statements raise potential concerns regarding the creditworthiness of the Applicant, the Applicant must provide documentation of satisfactory mitigants to such concerns.

If the creditworthiness requirement cannot be satisfied as to the Applicant, either because acceptable financial statements are not available or as a result of the Administrator’s evaluation of the Applicant’s creditworthiness, the Applicant must provide a guaranty from another organization (a “Guarantor”) that has provided 3 years of financial statements, and which satisfies the creditworthiness requirement. The Guarantor will need to provide an unconditional guarantee of the Applicant’s obligations in connection with the Program. Based upon input from Applicants and their Guarantors, the Administrator has developed a standard form of Guaranty which can be made

available on request. It is also expected that the form of Guaranty will be made available on the Program Website in the next several weeks.

2. Neither the Administrator nor the City are extending any credit to Qualified Lenders. As such, why does it matter to the Administrator and the City that a Qualified Lender is creditworthy or not?

The Administrator and the City consider it prudent and appropriate for the Administrator to take reasonable measures to independently verify that Qualified Lenders have the financial ability to honor their loan commitments they make to Program borrowers and their indemnification and other obligations to the Administrator and to the City.

3. Can Qualified Lenders assign C-PACE loans?

Yes. Currently, however, the form Program agreements (i.e., the Master Lender Agreement, the Collection Agreement and the Master Transfer and Remittance Agreement) do not allow Qualified Lenders to assign or transfer those agreements without the prior consent of the Administrator, and in some cases, the City.

It is anticipated, however, that certain changes will be made to the form of Collection Agreement and the form of Master Transfer and Remittance Agreement to remove such restrictions. Once these form of Program agreements have been updated and published on the Program Website, it is expected that Qualified Lenders who enter into those agreements will generally be permitted to sell or otherwise transfer their Program loans (and assign their rights under the agreements with respect to such loans) to third-party entities without the prior consent of the Administrator. Such transfers would, however, be subject to the satisfaction of certain requirements, as specified in the updated Program agreements. Among other requirements, it is currently expected that these requirements will include (among other things) the following:

- The Qualified Lender that originates the Program loans will stay as the Administrator's counterparty under the Master Lender Agreement.
- The buyer or transferee of the loan must be the same entity that is the assignee of the Collection Agreement and of the loan-specific rights under the Master Transfer and Remittance Agreement.
- The proposed assignee must meet certain requirements including (among other things) being in good standing in the jurisdiction in which it was formed, being qualified to do business in New York, and it must not be a Prohibited Person.
- The actual assignment and transfer of the agreement will be made by execution of an assignment and assumption agreement between the Qualified Lender/assignor and the assignee substantially in a form to be made available by the Administrator on the Program Website. Within a specified number of days of the assignment, a copy of the fully executed assignment and assumption agreement must be delivered to the Administrator along with other relevant documents and information, such as contact information and wire instructions for the new assignee.
- In all cases, loan transfers and assignments of the Collection Agreement and loan-specific rights under the Master Transfer and Remittance Agreement will need to be done in a manner that complies with the requirements contained in those agreements as well as the requirements

contained in the Master Lender Agreement and the Guidelines. It is anticipated that these Program documents will all be revised and updated to incorporate these concepts (among others) and then made available on the Program Website.

4. How are C-PACE loans billed during construction periods?

Under the current Guidelines, a borrower's payments of principal and interest on their Program loan are referred to as "Program Charges". The Guidelines currently contemplate that billing for such Program Charges can only start after the borrower's project has been completed. The Administrator expects to update the Guidelines on this point to clarify that, as dictated by the "PACE Charge Payment Schedule" provided by the lender pursuant to the Master Lender Agreement and the Collection Agreement (the "Payment Schedule"), Program Charges can commence at any time after a loan closes.

It is expected that the Guidelines will also be amended to more precisely describe other parameters within which Qualified Lenders may provide construction financing under the Program. Lenders must be mindful of such parameters when structuring their loans and developing their Payment Schedules. It is anticipated that such amended Guidelines will (among other things) contemplate the following:

- Lenders must disburse 100% of the loan amount at closing. If there is a construction period, the loan amount can be held in escrow (or under some other similar arrangement) and the borrower can then draw down on the loan as construction progresses.
- Lenders may allow for periods, within the loan term, during which only payments of interest are due from the borrower (e.g., during construction). Lenders may also permit the capitalization of interest (whether during the construction period or otherwise).
- However, in accordance with applicable law, in all cases the total loan term cannot exceed the weighted average useful life of the systems and improvements funded by the loan.
- Pursuant to the Collection Agreement, once the loan closes, the Administrator will instruct the New York City Department of Finance ("DOF") to place the Program Charge on the subject property's next statement of account. Thus, it is expected that on-bill charges will begin to appear on the property tax statements shortly after closing, even if the amounts then due in respect of such charges are zero (as in the case where loan repayments do not start until construction is complete or some other date after closing).

When developing their Payment Schedules, Qualified Lenders should ensure that such schedules are consistent with all applicable Program requirements, including (without limit) the relevant provisions of the Guidelines as well as the applicable terms and conditions set forth in the Master Lender Agreement and the Collection Agreement.

5. How will the Administrator ensure that the PACE Projects financed under the Program are actually completed?

The Guidelines currently contemplate that Program loan repayments can only start once a project is completed. This requirement was intended to help align the interests of Qualified Lenders and the City in ensuring that PACE projects financed under the Program are actually completed. As discussed in question 4 above, however, it is anticipated that the Guidelines on this point will be

modified to allow Program Charges to start being collected at any time after a loan closes. By de-linking project completion from the start of loan repayment, there is some concern that Qualified Lenders' interests in project completion will fall out of alignment with those of the City.

To address this concern, the Administrator expects to require that Qualified Lenders must cause the projects they finance to be completed by a specified date-certain (the "Required Completion Date"). The Administrator is considering setting this Required Completion Date as the date that is the first anniversary of the originally expected completion date as contemplated at the time of loan closing. It is expected that the Guidelines and other applicable Program documents will be updated to incorporate these concepts and will also continue to require Qualified Lenders to deliver the "Certificate of Completion" contemplated in the Collection Agreement in connection with the completion of each project they finance.

6. When does the Program servicing fee become effective?

The servicing fee becomes effective at loan closing and will be owed by the lender to the Administrator semi-annually. Typically, it is expected that the servicing fee will be withheld from payments made by the borrower on their statement of account (tax bill). If, for a certain period, no payment of principal and/or interest is payable to the lender by the borrower, the Administrator will collect the servicing fee payment from the lender directly.

7. What is the status of new construction financing?

C-PACE financing for portions of new construction projects is expected to be allowed in the future. This change is also expected to permit improvements to buildings under some long-term ground leases to be funded with C-PACE.

Local Law 96 of 2019, which enabled C-PACE financing in New York City, was amended in April 2021 to allow for this change (see Local Law 42 of 2021, "Local Law 42"). The rulemaking process related to Local Law 42 is currently underway. More information can be found at the DOF website [here](#). NYCEEC will provide additional information on the timing of Local Law 42 and the rulemaking process when it is available.

Lastly, the Guidelines will also need to be amended to provide criteria for new construction and ground lease projects before C-PACE financing can be used for those types of projects.

8. What additional items may be expected in future versions of RFQ?

A goal of the Climate Mobilization Act is "to ensure equitable investment in environmental justice communities" (Section 4, Local Law 97 of 2019). Future versions of the RFQ may ask whether Qualified Lenders intend to offer C-PACE loans to prospective borrowers in environmental justice communities. Other changes should be expected based upon feedback from prospective C-PACE lenders and other stakeholders.

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Disclaimer: This document is intended to provide clarity on topics that are otherwise ambiguous or unclear in the RFQ or the Guidelines. That said, to the extent anything in this document conflicts with anything in the RFQ or the Guidelines, the provisions of the RFQ or the Guidelines (as amended, updated or replaced) take priority. To the extent applicable, this document is subject to the Additional Terms and Conditions provided in Schedule 1 to the RFQ.