

# **New York State General Municipal Law Article 5L**

## **Municipal Sustainable Energy Loan Program – Commercial Property Assessed Clean Energy (PACE) Guidance Document**

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## **I. Executive Summary**

Property Assessed Clean Energy (“PACE”) financing programs use authority given to a municipal corporation (county, town, city or village) to offer financing for property owners to fund energy efficiency and renewable energy projects on existing residential and commercial structures through a property owner’s voluntary agreement to have a special assessment or special tax charge placed on their annual property tax bill. This provides financing for these types of improvements over time without requiring the property owner to make a large upfront investment.

New York State General Municipal Law Article 5-L (“PACE Legislation”) authorizes municipal corporations to create sustainable energy financing program to provide PACE financing to property owners. PACE programs would be administered by a third party or parties (“PACE program administrators”) and would finance the installation of eligible renewable energy systems (“systems”) or energy efficiency improvements (“improvements”) repaid through a charge on the tax bill for the real property benefited by such financing, levied and collected at the same time and in the same manner as municipal property taxes.<sup>1</sup> The PACE Legislation requires the New York State Energy Research and Development Authority (“NYSERDA”) to provide certain guidance regarding the implementation of PACE in New York.

This document provides such guidance for commercial PACE programs. For the purposes of this guidance, this will also include residential buildings that are owned by a commercial or not-for-profit entity. NYSERDA does not suggest that this guidance should be used for residential PACE whereby the property is owned by an individual.

In accordance with the PACE Legislation, NYSERDA is issuing this guidance to:

1. Certify contractors or approve entities to certify contractors to perform energy audits ([Section III](#)) and system feasibility studies ([Section VII](#)).
2. Develop state-wide criteria for municipal corporations and certifying entities deCBring to certify contractors to perform energy audits ([Section IV](#)) and system feasibility studies ([Section VIII](#)).
3. Establish cost-effectiveness criteria for improvements and approve lists of such cost-effective improvements ([Section V](#)).
4. Approve systems in addition to those listed in the PACE Legislation as eligible for PACE financing ([Section VI](#)); and
5. Establish the form and manner by which municipal corporations should verify and report on the installation and performance of the improvements and systems ([Section IX](#)).

In order to establish criteria for certifying contractors to perform energy audits or system feasibility studies, this document also provides guidance for the requirements of a PACE energy audit [Section II](#) and technical guidance for system feasibility studies ([Section VIII](#)).

The criteria established in this document are not exhaustive nor exclusive. NYSERDA may add to or subtract from criteria on an as-needed basis.

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<sup>1</sup> Municipal Sustainable Energy Loan Program, New York State General Municipal Law Article 5L § 119E-119GG (2015).

## II. Recommended Criteria for PACE Energy Audits

The PACE Legislation states that no such loan (financing) shall be made for energy efficiency improvements unless determined to be appropriate through an energy audit. “Energy audit” means a formal evaluation of the energy consumption of a permanent building or structural improvement to real property for the purpose of identifying appropriate energy efficiency improvements to be made to the property. “Energy efficiency improvement” means and includes any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weather-stripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements determined to be cost-effective pursuant to criteria established by NYSERDA. However, “energy efficiency improvement” shall not include lighting measures (i.e. light bulbs) or household appliances that are not permanently fixed to real property (i.e. plug-in appliances).

While NYSERDA is not required to establish criteria for a PACE energy audit, NYSERDA recommends the criteria below. NYSERDA strongly encourages contractors to use a whole building analysis approach for the energy audit, but a single measure approach is also acceptable. Beyond these criteria, the certifying entity (see [Section III](#)) should ensure contractors perform high-quality energy audits that are clear, accurate, and present useful recommendations to the property owner, including simple payback analysis and/or life cycle cost or other more detailed financial analysis (i.e. return on investment), and savings-to-investment ratio if needed to support financing requirements as described in [Section V](#).

### Comprehensive Audit

In general, a comprehensive whole building energy audit for a commercial building should include a visual inspection of the whole building, a review of the data collected from any previous energy audit, measurement and performance testing of the building and its components, combustion appliance testing, analysis of the building’s overall energy performance and a calculation of the energy savings anticipated from improving the energy performance of the building. This should also include a review of monthly electric and heating fuel consumption data from the customer’s energy bills (preferably 12 months of historical usage data) that relate to the whole building.

The energy audit requirement may be met when an American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”) Level 2 or 3 energy audit is conducted for a commercial property. For more information on ASHRAE 2 or 3 energy audits, please refer to the ASHRAE publication “Procedures for Commercial Energy Audits.”<sup>2</sup> Additionally, the municipal corporation may also consider alternative calculation methods, such as automated audit software (e.g. ENERGY STAR<sup>®</sup> savings calculation tools), which can serve to satisfy the energy audit requirement. Such alternative methods are eligible provided the energy audit identifies improvements that comply with technical standards.

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<sup>2</sup> ASHRAE. Procedures for Commercial Building Energy Audits. <https://www.ashrae.org/resources--publications/bookstore/procedures-for-commercial-building-energy-audits>

If a gut renovation<sup>3</sup>, or construction of an addition<sup>4</sup> is being accomplished, other factors may be considered in modeling of energy improvements and projection of energy savings to meet eligibility under the PACE Legislation for energy efficiency improvements to “reduce energy consumption” or to meet program cost effectiveness criteria. In these instances, the energy savings estimates provided to the consumer would be based on any expected energy savings as compared to recent energy costs or compared to code-built construction or minimum-standard equipment, and could be estimated based on one of the following methods:

- If the building was recently occupied, a comparison of projected energy consumption to previous, weather-normalized energy bills, if available;
- Projected energy performance above the New York State Energy Conservation Construction Code in place at the time the improvements are made; or
- Efficiency Valuation Organization (EVO) International Performance Measurement and Verification Protocol (IPMVP) Option A: Retrofit Isolation: Key Parameter Measurement protocol, where savings are calculated based on a combination of measured and stipulated factors. Savings are determined by field measurement of the key performance parameter(s) which define the energy use of the improvement, or by engineering calculations of baseline and projected energy from estimated values based on historical data, manufacturer’s specifications, or engineering judgment. ([www.evo-world.org](http://www.evo-world.org)).

### Single-Measure Audit

At times, due to building owner’s preferences or the need for emergency replacements, or in the case of other single measure projects, a comprehensive audit may not be possible or preferred. However, the PACE Legislation still requires that an energy audit consisting of “a formal evaluation of the energy consumption of a permanent building or structural improvement to real property for the purpose of identifying appropriate energy efficiency improvements” must be accomplished to qualify the project for PACE financing. In these cases, it is recommended that the audit follow the requirements of relevant sections of the audit standards listed above that pertain to the equipment or other measure being installed, and that relevant health and safety issues be considered during the audit process.

However, the audit requirements for emergency replacement of failed equipment may be more streamlined to meet business needs for timely replacement, and in recognition that the focus of the energy audit should be aimed at presenting the consumer with information and options to consider the incremental cost and benefits associated with higher efficiency improvement. In this case, it is assumed that improvements already deemed to be cost effective as determined under

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<sup>3</sup> For the purpose of this guidance, a gut renovation is the replacement of multiple systems of a permanent building, such as interior or exterior walls, and mechanical, plumbing, or electrical systems, but not including the external framed structure and foundation.

<sup>4</sup> For the purpose of this guidance, an addition is a structural improvement to real property which may add square footage alongside or above the existing building.

the applicable sections of this guidance would be “appropriate” improvements under the emergency circumstances.

NYSERDA recognizes that the energy audit and other pre-development work, such as improvement design work, are stand-alone PACE eligible measures provided that the proposed improvement(s) would comply with the technical standards set forth in these guidelines. As stand-alone PACE eligible measures, energy audits and other pre-development work may only have a finance term which does not exceed five years.

### **III. NYSERDA’s Approval of Entities to Certify Contractors to Perform PACE Energy Audits**

The PACE Legislation provides that the energy audit must be performed by a contractor who is certified by NYSERDA or who is certified by a certifying entity approved by NYSERDA for this purpose (PACE Certifier). NYSERDA will not directly certify contractors to perform commercial PACE energy audits. As provided for in the PACE Legislation, NYSERDA has instead established a process by which it will approve PACE Certifiers.

NYSERDA has already approved the following certifying entities to be commercial PACE Certifiers for energy audits:

- Association of Energy Engineers (“AEE”);
- American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”);
- Building Performance Institute, Inc. (“BPI”);
- Investor Confidence Project (ICP) or;
- Any entity accredited by the American National Standards Institute (“ANSI”) for building energy assessment or energy auditor certification; or;
- Any entity accredited by the International Accreditation Service (“IAS”) for building energy assessment or energy auditor certification; or;
- Any entity accredited by the Green Business Certification, Inc. (“GBCI”) for building energy assessment or energy auditor certification; or;
- Any entity accredited by any other qualified accreditation bodies who are in compliance with ISO/IEC 17024:2012 for building energy assessment or energy auditor certification; or;
- NYS Department of Education Engineering Licensing Board;
- NYS Department of Education Architecture Licensing Board

As examples, NYSERDA considers the following licenses or certifications offered by entities above to be acceptable for PACE auditors:

- New York State Licensed Professional Engineer (“P.E.”) who will sign and stamp the audit; or
- New York State Licensed Architect (“R.A.” or “AIA”); or;
- AEE Certified Energy Manager (C.E.M.); or;
- AEE Certified Energy Auditor (C.E.A.); or;
- BPI Multifamily Building Analyst (multifamily audits only); or;

- BPI Building Analyst; or;
- BPI Home Energy Professional (HEP) Energy Auditor; or;
- ASHRAE- Building Energy Assessment Professional; or;
- ICP Quality Assurance (QA) Assessor

Any entity that would like to be approved by NYSERDA as a PACE Certifier must submit an application to NYSERDA which can be found on NYSERDA’s website, <https://www.nyserda.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>, demonstrating how they can meet the accreditation requirements of ANSI, IAS, GBCI and that the certifications they offer can enable a contractor to perform an energy audit in compliance with the criteria in [Section II](#).<sup>5</sup> NYSERDA will review the application and make a final determination within sixty (60) days of receipt of the application as to whether the entity is approved to certify contractors to perform energy audits.

### **State-Wide Criteria for Certifying Contractors to Perform PACE Energy Audits**

The PACE Legislation indicates that a municipal corporation may, by local law, provide for the certification of contractors to perform PACE energy audits based upon criteria at least as stringent as the state-wide criteria adopted by NYSERDA. NYSERDA suggests that any contractor that is approved to perform energy audits in an existing NYSERDA or utility commercial program, where the audit requirements for the program meet the minimum criteria for PACE energy audits in [Section II](#), may also be automatically certified to perform commercial PACE energy audits without the further screening against the statewide criteria adopted by NYSERDA as described below.

Contractors seeking certification to perform PACE energy audits must demonstrate that they<sup>6</sup>:

- have the personnel, technical and other expertise and capacity to perform audits in accordance with the requirements of [Section II](#) above;
- comply with any relevant contractor code of conduct;
- can maintain appropriate oversight and management of employees and subcontractors who perform PACE energy audits through provision of organizational structure and/or relevant terms and conditions of contractual arrangements, as applicable;
- meet any relevant state and local licensing, training and permitting requirements;
- maintain and can provide proof of general liability insurance, worker’s compensation insurance, and disability benefits as required by New York State; and
- have three positive trade references and three positive customer references.

NYSERDA also suggests that contractor quality and customer satisfaction ratings be monitored and considered to the extent possible in the process of certifying or continuing certification for

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<sup>5</sup> No entity may be approved to certify itself to perform Energy Audits.

<sup>6</sup> The entities seeking certification to perform audits may, in many cases, be the same entities seeking certification to perform the project; for avoidance of doubt, these criteria are *only* those NYSERDA requires for contractors seeking certification to perform an audit – additional criteria would apply to those entities seeking to complete the project that may be recommended through the audit including the requirement to ensure the installation of equipment complies with all laws, codes, industry standards, and other applicable rules or regulations.

contractors performing PACE energy audits, as they become available and can reasonably be deemed reliable.

#### **IV. Cost-Effectiveness Criteria for Commercial PACE Energy Efficiency Improvements**

The PACE Legislation requires NYSERDA to establish criteria for determining the cost-effectiveness of energy efficiency improvements and to approve lists of cost effective improvements for different building types. This section establishes the cost-effectiveness criteria for improvements, describes how improvements are determined to be cost-effective through a cost benefit ratio (“CBR”) calculations, and provides information on how to add to the list of improvements already deemed by NYSERDA to be cost-effective (“pre-qualified”).

Guidance for performing the CBR calculation is provided on NYSERDA’s web site at <https://www.nyserdera.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>. NYSERDA also recognizes that, in some cases, certain ancillary measures must be accomplished for improvements to proceed or to resolve energy-related health and safety issues, and that these ancillary measures may not contribute to energy savings. These may include, but are not limited to, mold mitigation, lead abatement, asbestos removal, flue repairs, repair of gas leaks, ventilation improvements, installation of smoke and carbon monoxide detectors and minor roof repairs. NYSERDA suggests that PACE program administrators may include such necessary ancillary measures in PACE financing, but may exclude them from the CBR calculation described below. However, PACE program administrators must ensure that including the ancillary measures in the PACE financing does not extend the term of the PACE financing repayment period beyond the weighted average of the useful life of the improvements included in the project.

NYSERDA has considered how cost effectiveness potentially impacts PACE financing applicants. While an improvement may be deemed cost effective through a CBR calculation, it should be noted that the CBR calculation defines both energy savings and societal benefits as “savings” and it should therefore not be assumed that the improvement will pay for itself through energy bill savings alone over the term of the PACE financing.

##### List of Cost Effective Energy Efficiency Improvements

An improvement is deemed to be cost-effective when it is included in the lists of “Pre-Qualified Energy Efficiency Improvements” approved by NYSERDA or if it has a CBR of 1.0 or greater.

It should be noted that while a specific improvement may be deemed to be generally cost effective, and therefore approved as an improvement eligible for PACE financing, there is no guarantee that the improvement will be cost effective in every application. In addition, because the CBR takes into account societal benefits, it should not be assumed that an improvement deemed cost-effective will pay for itself in energy bill savings over the life of the PACE loan or over the average life of the improvement.



NYSERDA approves measures from the following lists as being cost effective “Pre-Qualified Energy Efficiency Improvements,” provided that the measures also meet the definition of “energy efficiency improvement” set forth in the PACE Legislation:

- “Prescriptive measures,” as defined in the Technical Resource Manual<sup>7</sup> and approved by the New York State Department of Public Service;
- Energy efficiency measures identified as being eligible for incentives in NYSERDA or utility commercial energy efficiency programs;
- Resiliency measures provided such measures pertain to energy consumption and the improvement being made and are addressed in the energy audit. PACE financing of resiliency measures is not available as a stand-alone project;
- Energy efficiency products certified by [ENERGY STAR®](https://www.energystar.gov/products?s=mega) (<https://www.energystar.gov/products?s=mega>);
- Products on the list of Energy Efficient Equipment published by the [Consortium for Energy Efficiency, Inc \(“CEE”\)](http://www.cee1.org/content/cee-program-resources) (<http://www.cee1.org/content/cee-program-resources>); or;
- Energy efficiency products certified by the [Federal Energy Management Program \(“FEMP”\)](https://www.energy.gov/eere/femp/search-energy-efficient-products) (<https://www.energy.gov/eere/femp/search-energy-efficient-products>).

If a PACE program administrator, contractor, manufacturer or other entity requests that an improvement be added to the list, NYSERDA requires that a CBR, along with all calculations, factors and assumptions, be provided to NYSERDA for review and approval. The calculations required and process for submitting the Request for Approval of Cost-Effective Energy Efficiency Improvement is posted on NYSERDA’s web site at <https://www.nyserda.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>. NYSERDA also recommends that a benefit/cost analysis (BCA) be accomplished for NYSERDA review and approval. The BCA divides the total savings (including energy, societal benefits and other project-related benefits as described below) over the lifetime of the project (present value) by the typical eligible implementation costs as defined in [Section II](#).

## V. NYSERDA’s Approval of Additional Renewable Energy Systems

A renewable energy system is defined as an energy generating system for the generation of electric or thermal energy by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority not including the combustion or pyrolysis of solid waste.

For purposes of making determinations of what renewable technologies may meet the standard of a System under the PACE Legislation, NYSERDA adopts the framework and definition of “investment eligibility” approved by the New York Public Service Commission in its January 21, 2016 “Order Authorizing the Clean Energy Fund Framework” (“CEF Order”).

In the CEF Order, the PSC defined eligible technologies as those related to “on-site renewable energy sources, energy efficiency, energy storage, smart grid, demand response, distributed

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<sup>7</sup> Department of Public Service. (2018, January 1). Technical Resource Manual. <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/72C23DECF52920A85257F1100671BDD?OpenDocument>

generation, renewable thermal and other low carbon technologies.” NYSERDA interprets that definition as including not only the complete energy systems referred to, but also the components and subcomponents of those systems.

Using these over-arching criteria and NYSERDA’s interpretation of them, NYSERDA hereby approves the following renewable technologies not enumerated in the PACE Legislation:

- air source heat pumps;
- air-to-water heat pumps;
- high efficiency, low emission wood heating systems; and
- energy storage systems (including electrochemical and thermal energy storage systems).

NYSERDA will publish on its website “[Commercial PACE Eligible Renewable Energy System Technologies Guidance Document](https://www.nysERDA.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy)” (<https://www.nysERDA.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>) and will update such list if it approves additional technologies over time.

NYSERDA recognizes that the feasibility study and other pre-development work, such as system design work, are stand-alone PACE eligible measures provided that the proposed improvement(s) would comply with the technical standards set forth in these guidelines. As stand-alone PACE eligible measures, feasibility studies and other pre-development work may only have a finance term which does not exceed five years.

## **VI. NYSERDA’s Approval of Entities to Certify Contractors to Perform Renewable Energy System Feasibility Studies**

The PACE Legislation provides that the system feasibility study must be performed by a contractor who is certified by NYSERDA or who is certified by a certifying entity approved by NYSERDA for this purpose (“PACE Certifier”). NYSERDA will not directly certify contractors to perform system feasibility studies (as described in [Section VIII](#)). As provided for in the PACE Legislation, NYSERDA has instead established a process by which it will approve PACE Certifiers.

NYSERDA has already approved the following certifying entities be PACE Certifiers for feasibility studies:

- North American Board of Certified Energy Practitioners (“NABCEP”) for solar certification, PV Technical Sales or PV Installation Professional programs;
- Underwriter Laboratories (“UL”) for PV System Installer;
- International Brotherhood of Electrical Workers (“IBEW”) Solar Installer program;
- International Ground Source Heat Pump Association (“IGSHPA”) GeoExchange Designer certification or accredited installer;
- BPI Air Conditioning and Heat Pump program;
- BPI Heating program;
- North American Technician Excellence (“Nate”);
- Chimney Safety Institute of America (“CSIA”) for chimney sweep certification;

- National Fireplace Institute (“NFI”) for pellet stove specialist certification;
- Any entity accredited by the American National Standards Institute (“ANSI”) for certification for the NYSERDA approved renewables technology; or;
- Any entity accredited by the International Accreditation Service (“IAS”) for certification for the NYSERDA approved renewables technology; or;
- Any entity accredited by any other qualified accreditation bodies who are in compliance with ISO/IEC 17024:2012 for the NYSERDA approved renewables technology; or;
- NYS Department of Education Engineering Licensing Board;

Any other entity that would like be approved by NYSERDA as a PACE Certifier must be able to establish to NYSERDA that they have the ability to determine whether contractors are at a minimum able to perform the feasibility study in accordance with the Commercial PACE Eligible Renewable Energy System Technologies Guidance Document found on NYSERDA’s website (<https://www.nyserderda.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>), and to continue to monitor such compliance. Certifications offered by entities above, that NYSERDA has deemed appropriate for performing system feasibility studies, are also listed in the Commercial PACE Eligible Renewable Energy System Technologies Guidance Document.

Entities requesting to be approved as a PACE Certifier for contractors to perform commercial PACE system feasibility studies must submit an application to NYSERDA which can be found on NYSERDA’s website at <https://www.nyserderda.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>.<sup>8</sup> NYSERDA will review the application and make a final determination within sixty (60) days of receipt of the application as to whether the entity is approved as a PACE Certifier, and for what types of systems the approval applies.

## **VII. State-Wide Criteria for Certifying Contractors to Perform Renewable Energy System Feasibility Studies**

The PACE Legislation indicates that a municipal corporation may, by local law, provide for the certification of contractors to perform feasibility studies based upon criteria at least as stringent as the statewide criteria for certification adopted by NYSERDA.

NYSERDA suggests that any contractor that is authorized to perform system feasibility studies in a NYSERDA or utility commercial program, where the feasibility study required by the program is consistent with the requirements set out in the Commercial PACE Eligible Renewable Energy System Technologies Guidance Document (<https://www.nyserderda.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>), may also be automatically certified to perform commercial PACE system feasibility studies without being further screened against the criteria adopted by NYSERDA as described below.

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<sup>8</sup> No entity may be approved to certify itself to perform Renewable Energy System Feasibility Studies.

Contractors seeking certification to perform commercial PACE System feasibility studies must demonstrate that they<sup>99</sup>:

- have the personnel, technical and other expertise, technical resources and capacity to perform audits in accordance with the requirements of the Commercial PACE Eligible Renewable Energy System Technologies Guidance Document (<https://www.nyserdera.ny.gov/All-Programs/Programs/Commercial-Property-Assessed-Clean-Energy>);
- comply with any relevant contractor code of conduct;
- can maintain appropriate oversight and management of employees and subcontractors who perform PACE system feasibility studies through provision of organizational structure and/or relevant terms and conditions of contractual arrangements, as applicable;
- meet any relevant state and local licensing, training and permitting requirements;
- maintain a valid completed W-9 form; proof of general liability insurance; worker's compensation insurance; and disability benefits as required by New York State; and
- have three positive trade references and three positive customer references.

NYSERDA also suggests that contractor quality and customer satisfaction ratings be monitored and considered to the extent possible in the process of certifying or continuing certification for contractors performing PACE system feasibility studies, as they become available and can reasonably be deemed reliable.

If the requirements of a system feasibility study include the use of alternative calculation, such as the National Renewable Energy Laboratory's PVWatts<sup>®</sup> Calculator, a municipal corporation's certification of a contractor to perform commercial PACE system feasibility studies may include a review regarding the entity's experience with use of such software.

## **VIII. Guidance Related to Verification and Reporting on Installation and Performance**

The PACE Legislation indicates that NYSERDA may establish the form and manner by which municipal corporations can verify and report on the installation and performance of the improvement(s) and renewable energy system(s) installed in their districts. To meet this requirement, municipal corporations or their agents are required to verify and report "on the installation and performance" of improvement(s) and system(s) that are financed through a municipal sustainable energy loan program in their district.

As part of this verification and performance reporting, NYSERDA suggests that the municipal corporation shall establish a process to ensure that financing is not fully disbursed until after the property owner has verified that the improvement(s) and/or system(s) were installed. Proof of installation can be confirmed through:

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<sup>9</sup> The entities seeking certification to perform audits may, in many cases, be the same entities seeking certification to perform the project; for avoidance of doubt, these criteria are *only* those NYSERDA requires for contractors seeking certification to perform a feasibility study – additional criteria would apply to those entities seeking to complete the project that may be recommended through the feasibility study including the requirement to ensure the installation of equipment complies with all laws, codes, industry standards, and other applicable rules or regulations.

- confirmation from a NYSERDA or utility program that the improvement(s) and/or system(s) were installed; or
- receipt of paid invoices for the cost of the improvement(s) and/or system(s), and a site inspection by a municipal corporation-approved inspector or a certificate of completion signed by the installer and the property owner.

NYSERDA further suggests that the municipal corporation or its agent establish a reporting system to report annually on the activity of financings issued through its program including but not limited to:

- number of financings issued (reported annually);
- total dollar amount of financings issued/closed/disbursed;
- total cumulative dollar amount billed for financing repayments;
- total cumulative dollar amount collected for financing repayments;
- total future financing repayments assessed but unpaid;
- specific characteristics of the improvements or systems being financed (e.g. number, size, efficiency, fuel type etc.);
- date of the installation; and
- projected energy savings (kWh, kW, MMBtu by fuel type), project savings, project cost, and projected energy cost savings.

To support municipal corporation reporting requirements, all data and information that is collected should be in an accessible electronic format.

To support NYSERDA's ability to track progress toward New York State's energy goals, NYSERDA requests that the municipal corporation or its agent also provide to NYSERDA, on an annual basis, the following information:

- number of financings issued (reported annually);
- total dollar amount of financings issued/closed/disbursed;
- projected kWh and kW savings
- projected MMBtu savings by fuel type
- projected energy cost savings

The following may be included in the PACE finance agreement to confirm that the Improvement(s) and System(s) being installed are operational:

- Property Owner Covenants in Finance Agreement:
  - the property owner shall have the improvement(s) and system(s) maintained in good condition and repair within the benefited property;
  - if requested, property owner shall promptly deliver or cause to be promptly delivered a written status report of the improvement(s) and system(s) to the municipal corporation; and
  - for purposes of examining the workmanship of the improvement(s) and system(s), observing the quality of and otherwise evaluating improvement(s) and system(s),

the property owner grants the municipal corporation, its agents and representatives the right to enter and visit the property at any reasonable time, after giving reasonable notice to the property owner, for a period of two (2) years from the completion of the improvement(s) and system(s). The property owner also agrees to participate in all surveys conducted about the program.

- 3<sup>rd</sup> Party Ownership: In addition to the above, provisions confirming:
  - the improvements will remain operational and cannot be removed through the term of the PACE finance agreement; and
  - the improvement(s) and system(s) and all agreement(s) and/or contract(s) creating a third-party arrangement are to be transferable to any new property owner, fourth party (e.g., tenant) and/or improvement(s) and system(s) owner for the duration of the term of the PACE finance agreement.

## **IX. Data Release Forms, Data Collection and Property Access**

To allow for verification and reporting on the installation and performance of the improvement(s) and system(s), all financing recipients should be asked to sign an energy data release form, allowing the municipal corporation or its agents and NYSERDA to receive project level data as described in Section IX and from the property owner's electric and gas utilities or non-regulated fuel provider two-years pre- and two-years post-project implementation energy usage and other related information. Additionally, all PACE financing recipients should be asked to agree to allow the municipal corporation or its agents to access the property where the improvement(s) or system(s) are installed to inspect and measure operation/performance of the installed improvements and/or systems. This access may occur before, during or up to two (2) years following project implementation.

Additionally, the municipal corporation should require financing recipients to identify whether they received any NYSERDA or utility funding for their project and, if so, through what program. A municipal corporation or its agents may be able to use verification and performance reporting done by NYSERDA or the utility to satisfy their own verification and performance reporting requirements.