

Green Jobs Green New York Advisory Council Meeting
April 14, 2010
Meeting Notes

Attendees:

Albany Office -

Tariq Niazi, CPB; Jen McCormick, ESD; Tom Holmes, Zero Draft; Mario Musolino, NYS DOL; Beth Berlin, OTDA; Jackson Morris, PACE; Floyd Barwig, NYS DPS; Ray Paglieri, BOCES; Keith Corneau, ESD; Barbara Guinn, OTDA; Tony Joseph, NYS DOL; Sue Montgomery-Corey, Chuck Schwartz, LI Green NYSERDA Attendees: Frank Murray, Karen Villeneuve, Adele Ferranti, Kevin Carey, Peggie Neville, Susan Moyer, Patrick Fitzgerald, Tom Barone, Marilyn Dare, Sue Andrews, Jeff Pitkin, Joanna Brumley, Ruth Horton, Jim Reis, John Jones, Dave Munro, Hal Brodie, Jen Meissner, Brian Platt, Victoria Engel, Larry Pakenas, Linda Miller, Carley Murray

NYC Office –

Hugo Salinas, New York Energy Conservation; Myles Lennon, Laborers' Eastern Region; David Hepinstall, Association Energy Affordability

NYSERDA Attendees: Sharon Griffith

Buffalo Office –

Clarke Gocker, PUSH Buffalo; Cyd Cox, Ecologic Home

NYSERDA Attendees: Kelly Tyler

Phone:

Maribel Cruz, NYPA; Les Bluestone, Blue Sea Construction; Dick Kornbluth, Building Performance Contractors Assoc.; Tom Carey, DHCR; Judy Butler, Butler Building Performance, Dan Zaweski, LIPA; Bill Johnson, GAPPP; Mike Deering, LIPA

(The following meeting notes capture comments, questions and discussions held at the meeting in response to the presentations given by NYSERDA staff. A copy of the presentation and any handouts provided can be found at www.NYSERDA.org.)

Members of the Green Jobs Green New York advisory Council met via video-conference at NYSERDA's Albany, New York City and Buffalo offices on 4/14/10. Telephone access was made available to members who could not make it to a video conference site. Also present at the meeting were several NYSERDA staff members and additional staff members from Advisory Council member organizations. The Meeting was videotaped and will be posted to www.NYSERDA.org.

Frank Murray, President and CEO, NYSERDA, Chaired the Meeting.

WELCOME & INTRODUCTIONS

Frank Murray provided an update to information provided at the March 25th Advisory Council meeting regarding the Financing Operating Plan. The Financing Operating Plan will not be presented at the April 28th Advisory Council Meeting as previously discussed. NYSERDA believes it would be premature to present the Financing Plan at this stage, as many details are still under development. This is due to the fact that details for the Financing Operating Plan will take time to finalize and depend in part on external factors. NYSERDA will provide regular updates on the status of the Financing Options as various pieces come into place during the next few months. Updates will be sent by email and posted on the program website. NYSERDA may call a meeting to specifically discuss the Financing Options if there is a significant shift in the approach. NYSERDA will be available to answer any questions regarding either the status of the Financing Operating Plan or the status of external factors affecting the Financing Options.

No changes were requested to the March 26, 2010 Advisory Council Meeting Notes. These notes will be posted to www.NYSERDA.org.

SMALL BUSINESS/NOT FOR PROFIT SECTOR OPERATING PLAN

Ruth Horton, Program Manager, Energy Efficiency Services, NYSERDA, presented the Small Business/Not-for-Profit Operating Plan. A copy of the Plan, the power point slides and a video tape of the presentation can be found at www.NYSERDA.org.

A draft of the Small Business/Not for Profit Operating Plan was provided to the Advisory Council Members in advance of the meeting. NYSERDA will consider all feedback provided during the meeting as well as feedback provided via email by April 21, 2010. Comments following the meeting should be sent to: comments-smallbusiness@nyserda.org

QUESTION: Clarification was sought as to the meaning of the term SBC in the chart on slide 14 of the presentation.

ANSWER: It is intended to be a generic term to encompass rate-payer funded programs (SBC and EEPS).

QUESTION: Could a constituency-based organization (CBO) fill the function of an expeditor?

ANSWER: Yes they could. And, in addition to that, if they are not the expeditor, we would encourage the CBO's to work with whomever the expeditors are. However, if they were to fill the role of an expeditor, they would do so under a separate agreement and not under the Outreach CBO contract.

QUESTION: Would NYSERDA be paying the expeditors directly?

ANSWER: Yes. We have not devised the mechanism to do that, whether that would be per visit or time and materials, is all to be determined. Input regarding that would be welcome.

QUESTION: Do you expect some projects to go forward without loans? Or do you expect the 1,600 is the number of projects that will go forward?

ANSWER: We expect that some projects will go forward without loans, because there are other incentives, and in some instances they will not want to take on additional debt. There will be some that will not do anything.

QUESTION: Do you have any projections on what those numbers might be?

We assumed that for every four audits we do, the small business or not for profit would move forward with a project, and that a majority of the projects will access the financing through the program. A smaller percentage was assumed to go ahead using incentives alone. This is optimistic, the challenges are very real. We will do our best, but these are the goals.

QUESTION: Will cost effectiveness be on a project basis or measure-for-measure?

ANSWER: Each measure has to be cost effective. So each measure has to pay for itself within the life of the measure. Bundling of measures improves the overall payback of the project. The list of equipment that we provided in the Operating Plan has already been determined to be cost effective based on that criteria.

QUESTION: Is cost effectiveness based on Savings to Investment Ratio (SIR) or Total Resource Cost (TRC)?

ANSWER: More closely akin to SIR.

QUESTION: Regarding the applicants. You mention that the tenants would not be considered the applicant unless they have authority for the fixtures and equipment that would be the subject of audit and retrofit work. Describe what is being done by your department or legal counsel to address this owner vs. tenant relationship; where tenants are paying the utility bills, they are the first line beneficiary of retrofit work, but do not have authority to enter property or space into the small business program.

ANSWER: We are exploring whether or not the owner can assign authority to the tenant to participate in the program. The problem we have is with the statute itself in defining the word applicant. "Applicant" means a person who owns, leases, or manages a structure, and who has the authority to contract for the provisions of qualified energy services for the structure. We do not have the liberty to say that if a tenant leases a portion of that space that that tenant would be

an applicant under the statute. We are trying to work with that and develop a mechanism for tenants to work with landlords so they can be the applicant for this program.

COMMENT: It seems like we have a structural issue here because in many cases it will be the landlord/owner that will be asked to enter into the program's loan, which means that the landlord/property owner will be taking on the debt requirements of the \$26,000. And, unless there is some (alternative) articulation of split-incentives, there is not necessarily an incentive for the property owner to assign that right to the tenant. So if we are dealing with about 60+% of small business spaces being leases rather than owner occupied, we are basically designing something here that is not going to be attractive to that same 60% of the market space, because it is still relying upon the owner/landlord wanting to take on debt for the benefit of tenant that is leasing the space.

ANSWER: NYSERDA agrees and recognizes that problem. We are trying to work with it. Of note, if the tenant leases the entire structure then the tenant is eligible to be an applicant. It is when the tenant leases part of the structure that the tenant is not eligible to be an applicant under the statute. NYSERDA will keep the Advisory Council informed as we develop strategies to deal with this challenge.

COMMENT: The program is dead in the water if we do not address this effectively in New York City, typically the triple net lease environment is what the small businesses are working in. They are the decision makers. The notion that a tenant has to own the whole structure is unrealistic when typically those businesses are in the first floor of a building that has multifamily (space) above, and multiple first floor business on each block in New York City. It seems that the definition of a structure should be probed to see to what extent you can consider the triple net lease structure of the first floor business as something that should be eligible. The owner will not sign off in that situation and we have a program that is dead. But, we have a great program if we get it to consider the triple net lease structure.

QUESTION: How are you coordinating this program? You are talking about having expeditors and auditors going into small business? How is that going to be coordinated with the utilities' 'Direct Install' programs, which are going to be targeting the same customers?

ANSWER: We have already started conversations with the utilities on how we will be able to work together in identifying customers, determining incentives, and other cross-organization issues. We will also coordinate with the CBO's in our initial outreach, as well as through the expeditors and the contractors who will do the audits and the installations.

QUESTION: It is possible that your expeditors will be selling the utility programs as an alternative if it fits?

ANSWER: Absolutely. We see the loan and selling the utility program as an opportunity. There are going to be instances where the scope of what one of these small businesses and not-for-profits wants to do is well above what the utility program can cover. So there is real opportunity

to put together what the utility has and what is missing from the utility programs could be covered under GJ/GNY.

QUESTION: I noticed that virtually all the utilities were on your working group. Did the issue of coordination come up in your discussion with utility representatives?

ANSWER: Yes, I think they were all on board with how the program will be put together. We had great discussions on that. One thing we made sure of is that, in terms of the audit, anything we put out as a standard, the utility audits would meet. They (the utilities) were all in concurrence with that and privy to that discussion.

QUESTION: When it comes to real property that is configured as a mixed use property, like the example that was just given where you have retail on 1st floor and residents on 2nd floor, how is the building, as a project, going to be classified. Will it be classified as small business commercial, will it be classified as residential, or are you going to separate and create a new mixed use category to address those properties that contain both?

ANSWER: We are exploring the idea of establishing a category of mixed use buildings and we will have to figure out- based on the legislation, which does divide into residential and non-residential pieces - how we can fit these two things together to serve that building. We do not have an answer today on that.

QUESTION: Regarding the issue of split incentive: Do you have some examples of an active split incentive program that is operational in New York City?

ANSWER: In the large commercial sector, we have developed a model green lease which, if adopted, we think is a model for a lease that is a win-win situation. The owner and tenant can share in the benefits of the action taken. We are rolling it out now and looking for some early adopters. This has been done in conjunction with the advice of the Real Estate Board of New York and the Mayor's Office in NYC. It was designed for large complex buildings, such as high rises. However, certain aspects of this would translate well with smaller audiences. So we will pilot that and that would be the kind of thing that we would introduce.

QUESTION: That introduction might actually come sometime after the coalitions have been initiated, after the RFP process?

ANSWER: Information on the model green leases could be provided to CBOs and others.

QUESTION: I understand the Green Lease program as it is applied for large organizations, large properties. But in the context of a small business component of GJ/GNY, if we are going to be using it as a model, will it be deployed at the same time as the launching of the coalitions, or will there be a six month or eighteen month lag before you can translate the Green Lease program that is designed for large properties and have something that is operational for this program?

ANSWER: We can make the green lease program format available to anyone interested. However, we were not envisioning a separate component through this program; we are hoping that with continued support from us and other stakeholders, that it is something the industry will adopt as best practice.

Question: I am interested in how soon we can necessary anticipate some of the small businesses being able to consider this adoption as it pertains to the coalitions coming on line, trying to promote the program, and trying to present a small business version of the Green Lease program.

ANSWER: We will take a look of the applicability of what we currently have for this market.

QUESTION: There is an eligible audience and you divided it between less than 100 employees and any number of employees. Have you internally, in the working group, considered giving some structure to the loan program that gives an appropriate number of the maximum amounts of loans to small business that are on the lower end of that list of 100 vs. a situation where 90% of the loans can very quickly be snapped up by the small business that are in the 80 –90-100 employee range? They are going to have the resources, more so than that under 10-15 employee organization. I am concerned that bigger small businesses will gobble up the loans faster than the smaller small businesses.

ANSWER: Interesting concern. We had not considered that. The idea had been to have the loans available on a first come, first serve basis as long as the resources last. We were not anticipating we would run out of money too quickly. Our experience previously with the loan fund has been that larger businesses tend to have workscopes in the area of \$100,000. With the loan limit being \$26,000 this will probably be a limiting factor.

Comment: (Scenario: \$100,000 retrofit program for 100 employee firm.) As a business owner I would be happy to defray \$26,000 of that \$100,000 by applying to this program because it reduces the self-finance portion, meaning \$74,000 from the \$100,000 program. So I would expect larger organizations to be looking to creatively construct a blended financing plan and not just rely upon their retrofit work being limited to \$26,000.

QUESTION: How are you intending to verify the number of employees the firm has?

ANSWER: We might call the Labor Department?

COMMENT: That may be how you will have to do it. And then you have to determine what day, what's an employee, what is not an employee, full time, etc.? We will have to work through that.

COMMENT: We have been told that number of employees means any part-time and full-time employee on the payroll. But we will have to work through the other points you bring up.

UPDATE ON ADVISORY COUNCIL OUTREACH WORKING GROUP

Karen Villeneuve, Director Residential Efficiency & Affordability Program, NYSERDA provided an update on the work of the Advisory Council Outreach Working Group. The group has held two calls on aggregation since the last Advisory Council Meeting. The Working Group has reached consensus on some issues, but not on others. Some Members of the Working Group are discussing certain topics off-line to bring back to the group. The definition of aggregation has been determined to be a collection of homes that agree to all be served by a contractor or contractor team. Some Contractors will continue to self-aggregate. The appropriate size and geographical limitations of the aggregations are being discussed, as well as whether aggregation makes sense for the small commercial/not-for-profit sector. The Working Group is also discussing the standards that Contractors will have to sign up to in order to receive aggregations.

There was a discussion related to pricing for the aggregate customer. Complexity is going to exist in the aggregation program, in an effort to try to create standardized pricing on one hand and to, on the other hand, assure that the property owners that participate within the aggregation program will in fact receive some material discount from market prices that would justify those property owners participating in that aggregation program. The Working Group did not come to a conclusion this issue is still under consideration.

Next Steps: NYSERDA will be pulling the notes together and getting them back out to working group participants to make sure that everything is documented appropriately. NYSERDA will be using that information to update the Outreach and Marketing Operating Plan as well as to help with the writing of the solicitations for that outreach activity. And, also to help with writing the 1-4 Family Operation Plan which has to be finished up within the next week.

INTRODUCTION OF ONE-TO-FOUR FAMILY SECTOR APPROACH

John Jones, Small Homes Program Manager, NYSERDA provided a brief overview of NYSERDA's Home Performance with Energy Star Program as well as key issues the Working Group has been addressing. A copy of the powerpoint and a video tape of the presentation can be found at www.NYSERDA.org. This discussion was intended to give the Advisory Council an overview of the Home Performance Program because many people are not familiar with it and how it's implemented by NYSERDA. The full discussion of how we will be incorporating GJGNY into Home Performance will take place at the April 28th Advisory Council Meeting.

QUESTION: Do you have available, or is it on the website, the demographic breakdown of HPwES (projects). Where those homes are being serviced, by county?

ANSWER: We do not list on the website where those homes are being completed, but most, 85% of program, activity is in the Buffalo, Syracuse, and Rochester area. There is some in the North Country, some in Capital District, seeing large uptick in downstate market, some in lower Hudson Valley; but the majority is in the Buffalo Syracuse Rochester area. And, as you know, those are not the strongest economically, but customers are still coming, hand over fist. We can make this information available to the Advisory Council.

QUESTION: Does the 31,000 homes served include the Assisted Home Performance Program?

ANSWER: Yes, of the 31,000 approximately 10,000 are in the Assisted Home Performance Program.

QUESTION: Question on the consultant model: To what extent does it exist in New York? What percentage do you think are just in the consultant mode?

ANSWER: We currently have 240 contractors participating in the program around 20% are consultants that work with contractors. They are mainly in mid-to lower Hudson Valley and a few in the Western market. There are some contractors that use other contractors to do their energy assessments for them. There must be a real trust to do this and that is why the contractor model is preferred in the field. Some consultants turn into general contractors where they will have contractors work underneath them as subs. We have approximately 10-15% of the program working in that fashion.

QUESTION: To what extent in that model is the consultant doing the testing out or is it the contractor?

ANSWER: All contractors have to test out on any work that they complete. So, if there is a consultant working with shell and heating involved, the contractors must do the testing out on their work, then the consultant will come in and do the final testing out. All projects must be tested out to make sure that the house is left in a safe operational state that it is not back-drafting, has the proper amount of air flow, and ensure that there are not going to be any health safety or durability issues after the consultant leaves the home.

QUESTION: That is done by who actually did the work or by the consultant?

ANSWER: If there is a consultant that is working with other contractors and it is the consultant that initiated the work and actually submitted the work, he would have to come back.

QUESTION: TREAT software. An Advisory Council Member stated that they have heard that the TREAT software may have limitations and that it may be posing problems with projects. Some of the categories might be too general and so you are missing opportunities. What is the status of making the TREAT software more effective?

ANSWER: TREAT was the exclusive software for the program until about a year ago. This industry has been developing since 2001, before then it did not exist. As of last year, the industry was big enough and getting enough attention. There are Home Performance programs in 26 states now, and Home Star legislation which is bigger than anything NYSERDA is doing, so we needed to bring other entities into this game. We issued RFQ1303 for additional software. No one was interested before in spending hundreds of thousands of dollars for this industry. We have one additional software approved, beta testing is going on now, and expect it to be completed in the next few weeks. We have had three other submissions in the last month. TREAT was limited, especially in the downstate market where there were large houses with multiple heating systems in the houses. Contractors had to do work-arounds in the software. It was very hard for program to do quality control on these projects, that is why we had to open it up to the market. The firm that owns TREAT is working on other software programs right now that is expected to address the issues and concerns raised about TREAT.

QUESTION: Is the RFQ still open?

ANSWER: Yes, it is still open.

COMMENT: A Home Performane Contractor stated that they fell into more of consultant category and noted that if you are going to be in this program you can't be an independent auditor without close relationships with contractors to do the work. In order to generate a report you have to have numbers, you have to have the ability to say how much a measure is going to cost. That has to be directly related to a contractor that would be willing to do the work for that amount of money.

RESPONSE: You are exactly right, but we do have entities that offer customers energy audits and say that they are working with contractors and they may or may not be. Customers need to be aware of that, which is why NYSERDA has put many things in place to mitigate any kind of confusion and to help customer through the process either directly through NYSERDA or through the implementation contractors, CSG.

QUESTION: What do you see as the average cost of a Home Performance job?

ANSWER: \$8,000

QUESTION: Would that mean that \$800 is the average incentive?

ANSWER: Yes, exactly. The majority of the projects in the program, those that are not in the subsidized Assisted Home Performance, are taking the Home Owner Financing Option, which is 10% cash back. They are able to get financing outside the program.

QUESTION: What is NYSERDA'S HOME PERFORMANCE Quality Assurance percentage?

ANSWER: Quality Assurance is extensive. The percentage is 20% on Assisted Home Performance, and 10% on Market Rate Home Performance.

QUESTION: Regarding the combination of aggregation of customers in the CBO outreach model – with contractors working in that same territory. Both could potentially overlap in that territory. Are there specific concerns?

ANSWER: There will be CBOs aggregating some customers in their territory, but there will also be contractors in that market. There are still discussions on aggregation and there will continue to be. The Working Group has had two meetings on that but they have not come to a decision on how that will work in the aggregation model. We must be careful not to interfere with what CBOs are trying to do but also have something that works for contractors and make sure CBOs and contractors are not stepping on each other.

COMMENT: An Advisory Council Member stated that it has not been determined who the CBO is in Syracuse New York. There is a theory that Home Headquarters is a CBO, their service territory is the entirety of five counties. So it is not clear to me from any of the discussions at any of these levels what is a CBO and what would define their service territory. The whole conversation about marketing is a gigantic grey area that needs to be defined better.

COMMENT: Tom Carey, NYS Division of Housing and Community Renewal stated that DHCR has worked for 20 - 30 years with a strong network of non-profits and community based agencies throughout the state. DHCR could supply a list of CBOs that are involved in housing rehabilitation and energy programs and other community services in Syracuse or anywhere in the state. Syracuse has one of our strongest weatherization agencies, Peace Inc. a community action agency and we have many others including Home Headquarters.

ANSWER: In the terms of the legislation, a CBO is a constituency based organization. There is a specific definition in the legislation. Many of the weatherization agencies will meet that definition, but one thing we have to be careful of is that in the case of the WAP agencies what we don't want is to be paying the WAP agencies to do outreach and then having them referring customers to themselves if they are also set up to do non-WAP work.

COMMENT: DHCR stated that they do have a large network, of over 300 other non-profits around the state that they work with that might be better suited to serve as referral resources and links to the community. NYSEDA will utilize this list to market the solicitation for the CBOs.

COMMENT: An Advisory Council Member, Zero Draft, stated that his company and Green Homes America are competitors in the Syracuse market. One of the benefits of an active market is that the awareness of the community is raised and both companies get more customers. The rising tide raises all boats. There is a concern if you put a CBO in the mix, they may benefit from the paid advertising that the Home Performance Contractors are doing.

ANSWER: NYSERDA does not want to see CBOs and contractors in competition. We look at this opportunity to work with CBOs as a way to increase participation. Our contractors are out there working, marketing their services, and doing a great job. We see this as an opportunity to enhance the activity in the marketplace. What we have to do is structure an approach with these communities that allows CBOs and contractors to find a way to work with each other without competition. That is no small task. It is going to be a sensitive thing and we are going to have to think hard and come up some strategies that are going to work and we are going to need input from contractors and CBOs to make it work.

Frank Murray further comments that conversations he has had with CBOs fit that analogy quite well. What CBOs are trying to do is raise the tide. Raise the water level so that there are more people participating in the program. If that is the case, that means more business to Zero Draft and Green Homes America and presumably more business to new entrants into the marketplace. As long as we get it right, it is not mutually inconsistent.

STATUS OF WORKFORCE DEVELOPMENT INITIATIVES

Adele Ferranti, Workforce & Market Support Program Manager, NYSERDA provided an update on the status of Workforce Development activities. The Operating Plan was approved by NYSERDA's Officers in March. PON2011, for Solar Thermal Training will be released within 30 days. PON 2014 for curriculum for outreach entities and Business Exchange Workshops, will be released within 45-60 days. PON1816 which is the EEPS Workforce Solicitation is out currently. It will be modified to include GJGNY aspects and re-released in 30-45 days. NYSERDA is currently drafting PON1817 Career Pathways for EEPS and will be adding oil efficiency and small commercial audit curriculum, with an expected release in 30-45 days.

Additionally, we are modifying some existing contracts to accommodate GJGNY activities. We are also issuing a Purchase Order to the Building Performance Contractors Association to do a survey of students who have completed building science and energy efficiency training form CEEBS but haven't moved forward in obtaining certification or becoming contractors. The goal of the survey is to understand the reasons for this and identify any additional barriers to obtaining certification.

QUESTION: PON 1816 – You put August 10 as the date to apply and ‘until funds are expended,’ any sense on how that is going?

Answer: We are very disappointed in the response rate to 1816 thus far. There was a lot of interest, a lot of activity, many meetings with Department of Labor, and people begging us for money. The PON has been on the street since January and we have gotten only four or five small proposals. We have several large ones that we hear are coming, but still have the bulk of the \$3.8 million for PON 1816. There is plenty of time to propose. There is a lot of interest but we have learned that staff at universities that are doing training, are stretched very thin and have been scrambling writing proposals for other Federal solicitations, and are playing catch up. We know they are coming, but it is a question of when.

PUBLIC INPUT

There was no input provided from members of the public.

NEXT STEPS:

The next meeting of the Advisory Council will be April 28th from 1:00pm to 4:00pm in Albany. We will then have a break in the meeting schedule until May 26th.

Comments are due April 21, 2010 on the Small Commercial/Not for Profit Operating Plan.