

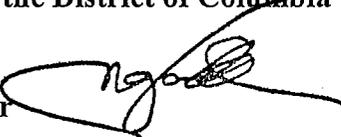
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: December 14, 2009

SUBJECT: Fiscal Impact Statement – “Energy Efficiency Financing Act of 2009”

REFERENCE: No Bill Number

Conclusion

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The proposed legislation would establish a National Capital Energy Finance Administration (Energy Finance Administration) to administer a revolving energy-efficiency retrofit loan program for property owners in the District. The legislation authorizes the issuance of up to \$250 million of revenue bonds to support the loan program. Under the proposed structure, bonds issued through this program would not be considered District tax-supported debt for purposes of the Debt Cap Legislation¹. (See comment on rating agency reaction in section “Impact on Debt Cap” below.) If the debt structure were to change, or if the District were required to guarantee payments on the bonds in any way, additional analysis would be needed to make a further determination of the impact of the bonds on the District’s debt cap.

Background

The District is applying for \$35 million in grant funds through a competitive Funding Opportunity Announcement administered by the United States Department of Energy. The proposal would establish a revolving loan program designed to overcome existing financial access barriers associated with making energy efficiency improvements in the residential, commercial and other real property sectors. The majority of the \$35 million, if awarded, would be the seed money for the first round of retrofit loans. A portion of the award would also fund the start-up costs of this program as well as some direct subsidies to low-income homeowners. The start-up costs would

¹The Limitation on Borrowing and Establishment of the Operating Cash Reserve Act of 2008, effective March 25, 2009 (D.C. Law 17-360; D.C. Official Code § 47-334 *passim*).

include the costs to the District Department of the Environment and the Deputy Mayor for Planning and Economic Development for program development and oversight.

The legislation anticipates that the initial loans would be made from the federal grant funds described below, and the recipient property owners would repay their loans through a special assessment on their properties. These repayments would support the first and then, in a revolving fashion, additional debt issuances to make available more retrofit loan funds to property owners.

The bonds, which are called Property Assessed Clean Energy Bonds or "PACE Bonds" can be issued in a series of one or more, and will be backed solely by payments from the property owners who borrow energy retrofit funds, and not by District revenues. The legislation authorizes a special assessment to be placed on any Square and Lot in the District where the property owner received an energy efficiency loan and agreed to such assessment. The Office of Tax and Revenue would collect the special assessment and remit to the "Special Energy Assessment Fund," also established by this legislation. This fund would be pledged to repay the bonds.

The legislation also creates a "National Capital Energy Fund" which can hold the federal grant funds, when awarded, and any PACE Bond proceeds. The legislation also authorizes the Energy Finance Administration to manage the program and make loans to from the National Capital Energy Fund.

The Energy Finance Administration would perform the following duties:

- 1) Outreach and market to eligible property owners to inform them of the existence and benefits of the energy efficiency loan program;
- 2) Process, underwrite and service all energy efficiency loan applications;
- 3) Identify market opportunities and funding leverage opportunities;
- 4) Collect appropriate documents and recordation of tax lien;
- 5) Send billing information to the Office of Tax and Revenue;
- 6) Retain and oversee firms to perform energy audits, energy benchmarking, and energy savings verification;
- 7) Approve forms to perform installation of energy efficiency improvements; and
- 8) Report to the Mayor and the Council on the progress of the energy efficiency loan program.

While the initial start-up costs of the program will be funded by the U.S. Department of Energy Grant, the ongoing administrative costs will be paid by a surcharge on the special assessment levied against the properties in excess of the amount necessary to pay debt service on the bonds. The surcharge will be calculated as an additional interest rate on the energy efficiency loan.

Administrative Fee

The proposed legislation sets the interest rate of the initial energy retrofit loans at the 10-year Treasury rate plus 250 basis points (2.5 percentage points). When the first PACE Bonds are issued, the loan rate will automatically adjust to 150 basis points (1.5 percentage points) above the PACE Bond interest rate. This additional interest is intended to be sufficient to cover the

ongoing administrative costs of the program. The OCFO has not completed an analysis that compares the expected administrative fee with the costs to the Energy Finance Administration and the Office of Tax and Revenue of administering the program. The costs to the Office of Tax and Revenue are expected to be approximately \$135,000 in FY 2010 and approximately \$35,000 per year for the rest of the financial plan period. If the fee produces insufficient funds to administer the program, this could limit the availability of funds for future loans.

Impact on Debt Cap

The proposed legislation clarifies that PACE Bonds issued through this program would not be considered District tax-supported debt for purposes of the Debt Cap Legislation. However, preliminary inquiries to the rating agencies have resulted in requests for more detailed information with regard to whether the rating agencies will consider this to be District debt. As currently structured, the PACE Bonds are issued and administered by the District, but revenues supporting the bonds are paid by the property owners who voluntarily entered the program, agreeing to pay special assessments based on the energy upgrade costs made on their property. These are not general revenues of the District and the District is not liable for these assessments should the borrower fail to make the necessary payment. The bond is similar to a traditional industrial revenue bond, but with multiple borrowers and District collection of the loan repayments and enforcement of collections through the property tax system (*i.e.*, liens could be placed on properties for nonpayment). If the debt structure were to change, or if the District were required to guarantee payments on the bonds, then the PACE Bonds could be considered within the debt cap. In this case, the ability of the District to issue PACE Bonds would be severely constrained, because very little debt capacity is available during the financial plan period.

Financial Plan Impact

Funds are sufficient in the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The costs of the Energy Finance Administration and the costs of the Office of Tax and Revenue in running the program are paid for by revenues identified in the legislation. The costs to the District's Department of Energy and the Office of the Deputy Mayor for Planning and Economic Development will be funded through the federal grant proceeds, if awarded. If the Department of Energy Grant is not awarded, the Mayor may have to come back to Council for additional authority, and as this program is refined, additional legislative action may be required. Under the currently proposed structure, the PACE Bonds authorized in this legislation would not be considered District debt pursuant to the Debt Cap Legislation.