



## OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

John A. Carey  
Inspector General



Inspector General  
Accredited

*“Enhancing Public Trust in Government”*

# Contract Oversight Report

**CA-2021-0049**

**Palm Beach County – PACE  
Program Review**

**September 27, 2022**

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**Insight – Oversight – Foresight**



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## PALM BEACH COUNTY – PACE PROGRAM REVIEW

### SUMMARY

#### WHAT WE DID



The Palm Beach County Office of the Inspector General (OIG) conducted an evaluation of the Palm Beach County Office of Resilience's (OOR) management of the Property Assessed Clean Energy (PACE) Ordinance for Palm Beach County (PBC) for residential properties. The OIG reviewed the period from April 4, 2017, through December 31, 2021.

The OOR manages the PACE program for PBC. Section 163.08, Florida Statutes (F.S.), authorizes local governments to levy non-ad valorem assessments for qualifying improvements<sup>1</sup> to real property in accordance with the PACE program. PBC Ordinance No. 2017-012 (Ordinance), which is applicable within unincorporated areas of Palm Beach County and in municipalities that have not adopted an ordinance relating to PACE or have voted to allow their residents to participate in the County's program, provides the framework for the PACE program including authorization, disclosure, and eligibility requirements.

The purpose of the review was to verify compliance with PBC Ordinance 2017-012, including:

- PACE program providers are submitting complete and accurate quarterly reports to the PBC Office of Resilience;
- The financial and disclosure requirements of the PACE program are in compliance with the Ordinance; and,
- Evaluate the overall effectiveness of PACE program management.

We want to acknowledge the work the PBC Tax Collector's Office has done in assessing the PACE program and its report to the PBC Board of County Commissioners (BCC).<sup>2</sup> This OIG review is not intended to duplicate any of the Tax Collector's assessment or assess managerial decisions on the PACE program.

#### WHAT WE FOUND

Overall, the OOR and the PACE providers and Districts were in compliance with the PBC Ordinance. We found a few instances of ineligible owners of residential properties receiving PACE funding.

<sup>1</sup> Qualifying improvements include energy conservation and efficiency, renewable energy, and wind resistance improvements. PBC Ordinance No. 2017-012, section 4, subsection 3.

<sup>2</sup> PBC Tax Collector's Office presentation to the BCC on September 28, 2021

Additionally, we found weakness in internal controls for policies and procedures relating to documenting compliance with the Ordinance. Written policies and procedures provide notice of an agency's expectations and practices and provide a source of continuity and a basis for uniformity and consistency in operations. Developing written policies and procedures for verification of property owners' eligibility could decrease the risk of ineligible property owners receiving PACE funding.

### WHAT WE RECOMMEND

We make one (1) finding and (1) recommendation. Implementation of the recommendation will help PBC strengthen internal controls for reporting and documenting compliance with the requirements of the Ordinance.

OOR concurred and accepted the recommendation.

## BACKGROUND

In 2010, the Florida Legislature enacted section 163.08, F.S.<sup>3</sup>, granting counties, municipalities, and dependent special districts specific authority to create PACE programs. Section 163.08(4), F.S. (2010), provided that, subject to local government ordinance or resolution, a property owner could apply to the local government for funding to finance a qualifying improvement, and the costs to the local government could be collected as a non-ad valorem assessment. In 2012, the Legislature expanded the definition of “local government” to include separate legal entities created pursuant to the Florida Interlocal Cooperation Act, which could finance improvements and levy PACE non-ad valorem assessments.

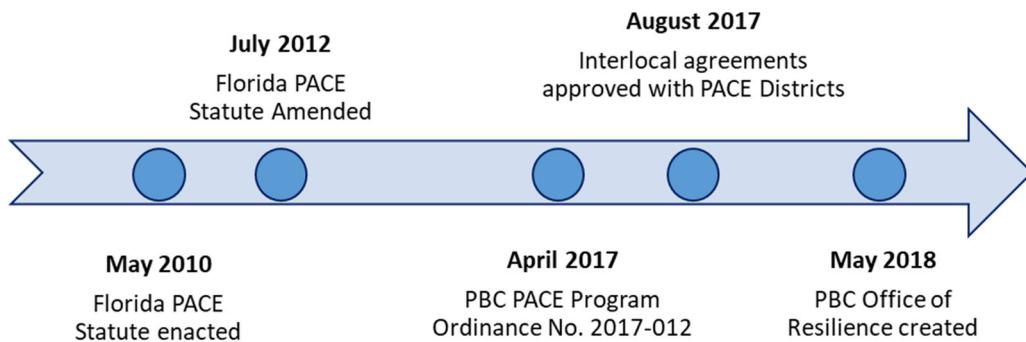
The PBC Board of County Commissioners (BCC) adopted its PACE Ordinance on April 4, 2017. The Ordinance stated that PBC intended to enter into interlocal agreements with multiple PACE agencies/authorities/districts (Districts). The Ordinance defines “PACE agencies/authorities/districts” as one or more local governments authorized by PBC to offer PACE financing for qualifying improvements.

The PACE program allows residential and commercial property owners in areas covered by the Ordinance to apply for and obtain financing to make energy efficient, renewable energy, and wind-resistant improvements to their homes with little or no up-front costs. The financing is repaid via a voluntary non-ad valorem assessment on the property owner’s annual tax bill. A lien on the property is recorded in the Public Records of the county where the real property is located. The OIG observed that in Palm Beach County, repayment terms have ranged from five (5) to thirty (30) years.



Our review focused on the PACE program for **residential** properties from April 2017 through December 2021.

### PBC PACE Program Timeline



<sup>3</sup> Chapter 2010-139, Laws of Florida.

***Disclosure Requirements:***<sup>4</sup>

The PBC Ordinance establishes various criteria that must be followed in order for special taxing districts to offer PACE financing in PBC. The Ordinance states that in addition to any disclosures required by section 163.08, F.S., Districts must meet certain requirements, including:

PACE Districts must provide a separate written notice to the property owner disclosing:

- The estimated total amount of debt, capitalized interest, effective rate of interest, repayment terms, and an amortization schedule;
- That the PACE assessment will appear on the property owner's tax bill;
- That the property owner may be required to pay the PACE assessment, in full, at the time of sale or refinance;
- That a lien will be recorded against the property and that failure to pay the PACE assessment could result in a tax certificate being issued and subsequent loss of property in the same manner as failure to pay property taxes;
- The specific improvements financed and that such improvements may or may not affect the value of the property; and
- 3-day right to cancel financing.

The Notice must be delivered and signed by the property owner prior to or contemporaneously with the property owner's signing of any legally enforceable documents under the PACE program. The PACE District must record or cause to be recorded the financing agreement or a summary memorandum of the financing agreement in the public records of the county within which the property is located within 5 days after execution of the agreement.<sup>5</sup>

***Residential Properties Program Eligibility Requirements include:***<sup>6</sup>

- Without the consent of the holder or loan servicers of any mortgage encumbering or secured by the property, the total amount of any non-ad valorem assessment for a property under the PACE statute may not exceed twenty percent (20%) of just/fair market value (FMV) of property as determined by the PBC Property Appraiser;
- There are no involuntary liens on the property;
- All mortgage debt on the property is current;

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<sup>4</sup> For complete list of PACE disclosure requirements in Ordinance 2017-012, section 6, visit Palm Beach County, Florida, Code of Laws and Ordinances, Section 17-506 at:

[https://library.municode.com/fl/palm\\_beach\\_county/codes/code\\_of\\_ordinances?nodeId=PABECOCO\\_CH17LITAMIBURE\\_ARTXVIIPRASCLENPAPR\\_S17-506DIRE](https://library.municode.com/fl/palm_beach_county/codes/code_of_ordinances?nodeId=PABECOCO_CH17LITAMIBURE_ARTXVIIPRASCLENPAPR_S17-506DIRE)

<sup>5</sup> Ordinance 2017-012, section 4(2); §163.08(8), F.S.

<sup>6</sup> For a complete list of PACE program eligibility requirements in Ordinance 2017-012, section 7, visit Palm Beach County, Florida, Code of Laws and Ordinances, Section 17-507 at:

[https://library.municode.com/fl/palm\\_beach\\_county/codes/code\\_of\\_ordinances?nodeId=PABECOCO\\_CH17LITAMIBURE\\_ARTXVIIPRASCLENPAPR\\_S17-507ELPRPRRE](https://library.municode.com/fl/palm_beach_county/codes/code_of_ordinances?nodeId=PABECOCO_CH17LITAMIBURE_ARTXVIIPRASCLENPAPR_S17-507ELPRPRRE)

- All mortgage-related debt on the property may not exceed 90% of the property's FMV;
- Total mortgage-related debt plus PACE financing may not exceed the property's FMV; and
- All property tax or other assessments have been paid and no property-based delinquencies have been recorded during the prior three (3) years, or period of ownership, whichever is less.

***PACE District Responsibilities include:***

- Managing and timely resolving property owners' complaints regarding contractors' performance;
- Timely responding to and resolving issues related to payments;
- Taking security measures to protect the security and confidentiality of consumer records;
- Providing property owners with the ability to opt-out of having information shared with third parties;
- Prohibition from engaging in marketing practices that are unfair, deceptive, abusive, or misleading; and
- Providing a report to PBC on a quarterly calendar basis containing: reporting period dates, property information, financing information, qualifying improvements made, estimated jobs created during the reporting period, energy savings, number of applications declined during the reporting period, and complaints received.

There are four (4) special taxing Districts authorized to administer the PACE program in PBC that provide the financing for PACE projects. The Districts' local third-party administrators, or PACE providers, to offer financing to property owners in the county. The PACE providers are not a government entity like the Districts, but they represent the District in overseeing the individual PACE projects. Once financing is approved, the PACE provider will issue a notice to proceed to the contractor, and pay the contractor directly for the improvements after the project is completed and accepted by the property owner.

In August 2017, the BCC signed interlocal agreements with the Districts, and indemnification agreements with the PACE providers. If a PACE provider changes Districts, the provider is asked to sign a new indemnification agreement with the County. The Districts authorized to operate under the Ordinance and the Districts' current PACE providers are listed below:

- ***District: Florida Green Finance Authority (FGFA)***
  - Renew Financial Group LLC (Renew)
- ***District: Florida Resiliency and Energy District (FRED)***
  - Renovate America Inc (Renovate)
  - Greenworks Lending – Commercial

- Enhanced PACE Finance LLC (Enhanced)
- **District: Green Corridor Property Assessed Clean Energy (Green Corridor)**
  - Ygrene Energy Fund Florida LLC (Ygrene)
- **District: Florida PACE Funding Agency (FPFA)**
  - CounterPointe Energy Solutions LLC
  - CounterPointe Sustainable Real Estate (SRE) - Commercial
  - FortiFi Financial Inc (FortiFi)
  - Home Run Financing (nee PACE Funding Group LLC)

### **PBC Office of Resilience**

PBC created the OOR in May 2018. OOR works “to ensure that Palm Beach County remains a great place to live, work, and play while addressing the physical, social, and economic challenges of a changing climate.”<sup>7</sup>



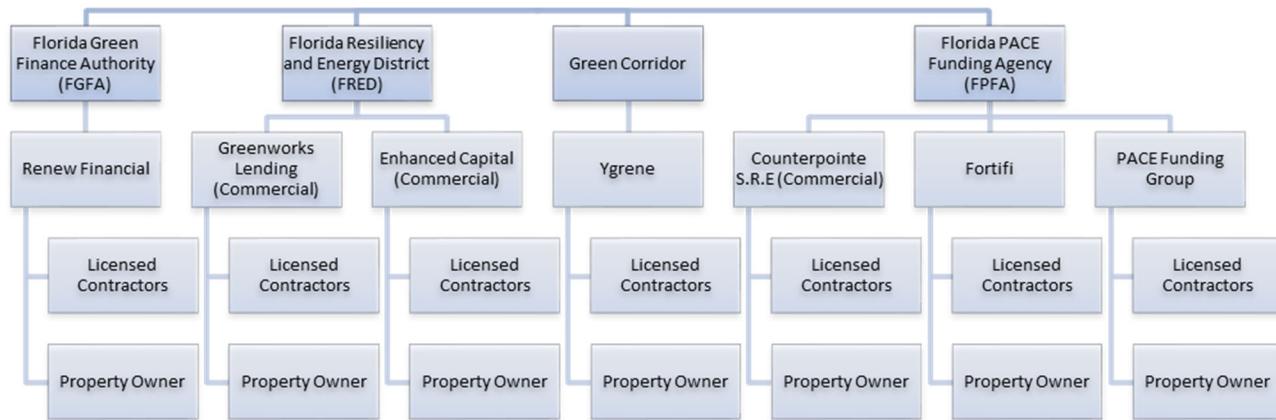
The OOR is responsible for program administration and oversight of the Districts and PACE providers, including:

- Requesting quarterly reports from PACE Districts;
- Ensuring PACE quarterly reports include complete, accurate, and timely data;
- Reviewing quarterly reports and coordinating with PACE Districts for missing data;
- Ensuring PACE providers execute BCC-approved indemnification agreements;
- Executing interlocal agreements with the PACE Districts;
- Ensuring PACE providers have current Certificates of Insurance;
- Managing the introduction of new PACE providers;
- Sending issues relating to consumer protection and misleading advertisements to the PBC Consumer Affairs Division, as appropriate;
- Answering community questions regarding PACE; and,
- Providing the BCC with updates on the PACE program, as requested.

Although not required by the Ordinance the OOR performs annual audits/assessments of 5-10% of the property records of projects for each District and provider, monitors the Districts' handling of complaints, and coordinates PACE programs with municipalities, as needed. Additionally, in the event that ten percent or more of a PACE District's projects result in complaints or disputes or such complaints or disputes remain unresolved six months after completion of a project, the OOR may review the PACE District's handling of complaints and may request corrective actions or initiate suspension proceedings.

<sup>7</sup> Palm Beach County Office of Resilience website, About Us: <https://discover.pbcgov.org/resilience/Pages/About-Us.aspx>

### *Organizational Chart of PBC's PACE Program*



## OBSERVATIONS

### ***Methodology***

We conducted interviews and reviewed documentation provided by the OOR and PACE Districts, including:

- BCC agendas, minutes, and presentation materials;
- Internal communications between the OOR and PACE providers;
- The OOR annual audit records;
- PACE Nation and OOR training materials;
- Agendas and minutes of the OOR and PACE providers' meetings;
- A sample of project property records the OIG received from providers; and
- PBC Property Appraiser, PBC Tax Collector, PBC Clerk of Court information.

In addition, we conducted a random sampling of sixty (60) residential properties out of 7,165 completed PACE projects between FY 2018 through FY 2021. The projects sampled were selected at random using the quarterly reports submitted to OOR.

We reviewed the following documents for compliance with PBC Ordinance No. 2017-012:

- BCC resolutions, interlocal agreements with Districts, and indemnification agreements with PACE providers;
- Quarterly reports;
- Providers' list of qualifying improvements;
- Sample disclosure notices;
- Sample financing agreements;
- Providers' marketing materials, websites, and social media posts;
- Providers' proof of insurance.

Using the requirements of PBC PACE Ordinance 2017-012 as a template, we created a checklist to verify that the Ordinance was followed. We verified that an active interlocal agreement was present between Palm Beach County and the special taxing Districts, a BCC-approved resolution and an indemnification agreement were on file for the PACE providers, and insurance coverages for providers were current.

We reviewed sample disclosure notices and Finance Agreements to ensure they contained the information required in *Section 6. Disclosure Requirements* of the PACE Ordinance.

We utilized the PBC Tax Collector, Clerk of the Circuit Court & Comptroller, and Property Appraiser's websites to confirm that a sample of residential properties we reviewed met eligibility requirements as outlined in *Section 7. Eligible Properties/Program Requirements* of the PACE ordinance.

The OIG requested the complete project documentation for sixty (60) approved residential properties from the PACE providers from 2017-2021. The documents provided were analyzed for the elements contained in PACE Ordinance 2017-012.

We reviewed the PBC Tax Collector's website to determine if property taxes and other assessments levied on the property tax bill had been delinquent for the preceding three years and reviewed the Clerk & Comptrollers website to determine if notices of default had been recorded during the three years preceding the PACE funding approval. Additionally, we reviewed the PBC Property Appraiser's and Clerk & Comptroller's websites and OOR files to determine whether PACE funding amounts exceeded twenty percent (20%) of the just/fair market value of the property during the year the PACE funding was received, without consent of the holders or loan services of any mortgage encumbering the property. Finally, we reviewed public records to ensure financing agreements were recorded within five (5) days after execution in accordance with section 163.08(8), F.S.<sup>8</sup>

The quarterly reports were assessed to confirm if the Districts submitted them in a timely manner, and whether the reports conformed to the requirements of *Section 7. (12) Eligible Properties/Program Requirements* of the PACE ordinance, containing: reporting period dates, property information, financing information, qualifying improvements made, estimated jobs created during the reporting period, energy savings, number of applications declined during the reporting period, and complaints received.

Finally, we interviewed PACE providers to assess general program procedures, contractor management policy, the complaint resolution process, and to obtain clarification on any outstanding documentation issues.

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<sup>8</sup> Florida Statute. § 163.08 (2021), Supplemental authority for improvements to real property - [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0163/Sections/0163.08.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0163/Sections/0163.08.html)

**Palm Beach County Office of Resilience (OOR)**

We found that the OOR is generally administering the PACE program in compliance with PBC Ordinance 2017-012.

In January 2019, the OOR published a standardized quarterly report template that captures the data required by the PACE ordinance and additional information that can be used by the OOR to manage the program. Although OOR has not mandated the use of the standardized OOR report form, most Districts and providers use it for reporting purposes. The template is useful to the OOR in its analysis of the PACE program data. The OOR continuously works with the PACE Districts to improve the content of the quarterly reports. The standardized quarterly report template is shown below:

## *OOR PACE Reporting Template*

The OOR conducts reviews of the quarterly reports and performs annual audits of selected projects from the PACE Districts. The OOR provides feedback to the Districts from its audits using an “Audit Outcomes” memo. For example, a memo dated February 27, 2020, informed a District that “three of the five projects audited for compliance lack a consumer disclosure notice...”, and “a consumer disclosure notice for a project on...lacks a signature”. We found the audit and review process to be effective for program oversight.

The Audit Outcomes memo also informs the Districts that “all audit findings will be provided to the Board of County Commissioners through regular staff updates on the program.” The OOR conducts periodic meetings and conferences with PACE providers to discuss ways to improve the program and provide program updates.

We noted instances of Districts submitting quarterly reports late. The OOR communicated with Districts regarding their providers to promote timely submissions. For example, a March 31, 2021 Audit Outcomes memo to a provider states, “Quarter 2, Quarter 3, and Quarter 4 reports were submitted late.” The OOR’s 2020 PACE audit identified similar concerns for another provider.

### ***PACE Energy Savings***

Section 7, subsection 12(c)(3) of the Ordinance requires PACE providers to report the projected energy savings and/or amount of potential renewable energy to be generated, as well as financial information, such as kilowatt hours saved/generated.

Section 7, subsection 4 of the Ordinance states:

.... All improvements and products should identify efficiency standards established by the U.S. Department of Energy, the U.S. Environmental Protection Agency, or Florida state agencies as applicable. All qualifying improvements must comply with the PACE Statute for energy efficiency, renewable energy and wind resistance or other improvements as permissible by law....

The Districts’ quarterly report includes the number of approved energy efficiency projects, the estimated energy savings, the estimated renewable energy generated, and an estimate of the economic impact by the number of temporary and permanent jobs created by the PACE projects. The report also contains the calculations and factors used in determining the estimated energy savings and renewable energy generated.

The efficiency standards used to support the methodology for calculating estimates on jobs creation, energy savings, and the renewable energy generated vary by district. The two major studies cited by the Districts are:

- University of South Florida, Patel College of Global Sustainability, “*Public Impacts of Florida’s Property Assessed Clean Energy (PACE) Program*”
- University of Southern California, Sol Price School of Public Policy, Schwarzenegger Institute, “*Impacts of the Property Assessed Clean Energy (PACE) Program on the Economies of California and Florida*”

The Districts also compile information from other government agencies, professional publications, industry resources, and manufacturers that is used to create their own models and factors to further refine the estimates. Some of these resources cited by the Districts are:

- U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy
- U.S. Energy Information Administration
- Environmental Protection Agency, Energy Star
- U.S. Geological Survey
- National Renewable Energy Laboratory
- Florida Office of Insurance Regulation
- International Energy Agency
- American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
- American Council for an Energy-Efficient Economy (ACEEE)
- Circle of Blue
- Cool Roof Rating Council
- Green Industry
- Handbook of Water Use and Conservation, by Amy Vickers
- Home Energy
- Rain Master Irrigation Systems
- River Network

The Districts state that calculations may include the use of assumptions, estimates, and specific project information. Many factors can influence the true program results, such as:

- Property owner's utilization of the energy improvements
- Condition of the building
- Efficiency of the installed improvements
- Weather
- Utility costs
- Regional impact of industry-specific economic activity

Some Districts stated in the quarterly reports that the savings estimates are customized to each household based on the type of improvement, housing characteristics, regional climate, and other factors. Finally, the estimated total savings are multiplied by the local utility rates to forecast the savings over the life of the products installed.

We reviewed the quarterly reports and tracking information compiled by the OOR. The following table is a summary of the energy efficiency of PBC's PACE program from 2018 – 2021:

Calendar Year	# Energy Efficiency Projects	# Solar Projects	# Wind Mitigation Projects	# Roof Projects	Estimated Jobs Created	Estimated Lifetime Energy Savings (kWh) <sup>9</sup>	Renewable Energy Generated (kWh)
2018	481	193	845	293	345.8	13,694,135	5,679,986
2019	640	277	1,680	375	1,214.0	53,879,114	47,322,364
2020	723	252	1,903	638	1,448.9	35,243,210	38,357,589
2021	79	85	282	109	184.0	1,807,187	19,956,583
Total	1,923	807	4,710	1,415	3,192.7	104,623,646	111,316,522

According to the U.S. Energy Information Administration:<sup>10</sup>

In 2020, the average annual electricity consumption for a U.S. residential utility customer was 10,715 kilowatt-hours (kWh), an average of about 893 kWh per month.

While a single industry-specific standard is not feasible, the providers appear to be exercising due diligence in complying with the energy efficiency requirements for qualifying improvements, as stated in the Ordinance.

### ***Consumer Privacy Policy***

We reviewed the consumer privacy policies for all the districts. In general, we found that the policies were in compliance with the Ordinance.

Section 7, subsection (7) of the Ordinance states:

The PACE agency/authority/district must develop and maintain a privacy policy that complies with state and federal law and, in particular, shall provide a property owner the ability to opt-out of having the property owner's information shared with third parties, except where expressly permitted by state and federal law.

The OOR's 2020 PACE Audit identified that Privacy Statement disclosure documents for one provider detailed how personal information collected is utilized and safeguarded, but noted that the "sample agreement lacks option to opt out of personal information sharing – pg. 38/48".<sup>11</sup> The OOR worked with the provider to correct the situation by including links in the online Consumer Disclosures, and adding to the main provider website instructions on opting-out from marketing emails, promotional materials, and tracking technologies.

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<sup>9</sup> A kilowatt hour (kWh) is a measure of how much energy you're using per hour (h), whilst a kW is a measure of power. kW stands for kilowatt, a universal standard for measuring electricity. So, one kilowatt equals 1,000 watts.

<sup>10</sup> U.S. Energy Information Administration (EIA) website, Frequently Asked Questions:

<https://www.eia.gov/tools/faqs/faq.php?id=97&t=3>

<sup>11</sup> OOR's 2020 PACE Audit Annual Audit Tracking spreadsheet

### ***Inquiries and Complaints***

We reviewed the complaint process for each District, providers, and OOR for compliance with the Ordinance. In general, the complaint processes were in compliance with the Ordinance.

Section 7, subsection 5(a)-(c) states:

- (a) The PACE agency/authority/district shall be required to receive, manage, track, timely resolve, and report on complaints from property owners regarding the funded work performed by the contractors. The PACE agency/authority/district shall investigate and mediate disputes between property owners and contractors in a timely manner.
- (b) Payment inquiries. The PACE agency/authority/district shall be required to respond to inquiries and resolve any issues in a timely manner, related to payments, including but not limited to prepayments and payment reconciliation.
- (c) Review. In the event that ten percent or more of a PACE agency's/authority's/district's projects result in complaints or disputes, or such complaints or disputes remain unresolved six months after completion of a project, the County may review the PACE agency's/authority's/district's handling of complaints and may request corrective actions or initiate suspension proceedings pursuant to Section 7(13).

Consumer complaints can be submitted to the PACE provider, the OOR, or the PBC Office of Consumer Affairs (Consumer Affairs). Complaints have also been fielded at the PBC Tax Collector's Office. The OOR is responsible for tracking and monitoring consumer complaints received in its office, and monitors consumer complaints in the PACE Districts' quarterly reports submissions. Complaints received by Consumer Affairs are documented and forwarded to the OOR. The OOR provides training to Consumer Affairs on the PACE program and how to handle and route these types of complaints.

During the course of our review, the OOR implemented a new process in 2022 for complaints in which the OOR may request PBC Planning Zoning and Building (PZB) Department to open a review of the contractor and project.

### ***Complaint Process - Provider Interviews***

The OIG interviewed PACE providers on the consumer complaint process. The majority of complaints received by providers are contractor related. The complaint handling process is similar with all providers. Complaints are received via a call center or email. The provider's staff are trained to handle PACE-related complaints. Complaints that are not able to be resolved by a provider's customer service team are escalated to a different customer resolution team or compliance department. Complaints are logged and tracked

on an internal database for reporting to OOR. One provider created a proprietary portal that classifies and tracks complaints, tracks deadlines, and generates reports.

The provider works with contractors to attempt to resolve issues. If the provider determines that the contractor acted inappropriately, the provider may provide additional training, place the contractor on probation, or terminate the contractor's contract. Some providers hold weekly meetings to discuss consumer complaints. The OOR discusses consumer complaints during its quarterly meetings with the PACE providers.

The OIG conducted a review on the number of customer complaints reported in the quarterly report submissions by PBC PACE providers, and by the internal tracking reports from the OOR. We calculated the Palm Beach County PACE complaint rate at 3.31% from 2018 through 2021.

Calendar Year	Residential Projects	Total \$	New Complaints	Complaint Rate
2018	1,570	\$ 33,740,077	15	0.96%
2019	2,332	\$ 53,139,957	65	2.79%
2020	2,778	\$ 60,947,864	144 <sup>12</sup>	5.18%
2021	485	\$ 12,396,496	13	2.68%
<b>Total</b>	<b>7,165</b>	<b>\$ 160,224,394</b>	<b>237</b>	<b>3.31%</b>

We noticed that the total complaints for calendar year 2020 is significantly higher than for other years. We could not determine the reason for the higher complaint count in 2020. The OOR's suggested report template standardized the reporting of complaint information, which may improve the data consistency of quarterly reports.

## FINDINGS AND RECOMMENDATIONS

**Finding (1): OOR does not have a formal written policy or procedure on how to implement the Ordinance.**

### **PBC Ordinance 2017-012, Section 7. Eligible Properties/Program Requirements**

Section 7, subsection 2(b) of the Ordinance states that PACE districts may finance qualifying improvements on residential properties provided:

All property taxes and other assessments levied on the property tax bill have been paid and have not been delinquent for the preceding three years, or the property owner's period of ownership, whichever is less;

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<sup>12</sup> Our review of the quarterly reports shows that in Q3 2020, the OOR identified that a provider reported a running cumulative total of complaints for the year, in lieu of only new complaints by quarter. The error was identified by OOR and corrected by Q4 2020. But the calculation was not updated on the OOR tracking spreadsheet. Also, there was no specific complaint data in the Q1 and Q2 reports to ascertain the correct complaint totals. In our calculations above, the OIG adjusted the complaint totals for Q2 2020 and Q3 2020 to account for the duplication error.

The Palm Beach County Tax Collector provides the following definitions on their Frequently Asked Questions website:<sup>13</sup>

***Delinquent Property Taxes***

Property tax is delinquent on April 1 and is subject to penalties and interest.

***Tax Certificates***

The Constitutional Tax Collector is required by law to hold an annual tax certificate sale to collect the preceding property year's unpaid taxes and associated fees... A tax certificate is an enforceable first lien against the property for unpaid real estate property tax. The certificate holder is an independent investor who actually pays the tax for a property owner in exchange for a competitive bid rate of return on the investment.

***Tax Deeds***

If the property owner fails to pay delinquent taxes within two years from the date of delinquency, the tax certificate holder may file a Tax Deed Application (TDA), per Florida Statute 197.502. The TDA is a legal document that initiates the process of the property to be sold at a tax deed sale, conducted by the Clerk & Comptroller's Office.

In our review of residential property records, we found a few instances where the Districts and PACE providers did not comply with the requirements of PBC Ordinance 2017-012.

**Belle Glade Residential Property**

We found a Belle Glade residential property with a project completion date of October 24, 2019, received \$18,270 in PACE funding for wind-resistant windows and doors.

A review of the PBC Tax Collector's tax information for this property evidenced tax certificates were issued for this property in May 2016, and May 2018. These delinquencies existed during the preceding three-year time period referenced in Section 7, subsection (2)(b).

The District submitted no documentation showing that the PBC Tax Collector records for the property were checked prior to execution of the PACE financing agreement.

**West Palm Beach Residential Property**

We reviewed a West Palm Beach property with a project funding date of June 16, 2020, that received \$35,352 in PACE funding for hurricane prevention improvements.

A review of the PBC Tax Collector's tax information for this property evidenced tax certificates were issued for this property in May 2018, and May 2019. These

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<sup>13</sup> Palm Beach County Tax Collector website: <https://www.pbctax.com/real-estate-property-tax/#delinquent-property-taxes>

delinquencies existed during the preceding three-year time period referenced in Section 7, subsection (2)(b).

The District submitted no documentation showing that the PBC Tax Collector records for the property were checked prior to execution of the PACE financing agreement.

A review of financing agreements for the sampled properties revealed that the agreements contain *Property Owner Acknowledgement*<sup>14</sup> clauses, or similar; whereby the property owner makes certain property ownership representations, such as:

- All property taxes are current and have not had any delinquencies in the last three (3) years.
- There are no involuntary liens on the property.
- Property owner is current on all mortgage debt on the property.
- Property owner is not party to an open bankruptcy proceeding.

### **Conclusion**

Overall, the OOR and the PACE providers and Districts were in compliance with the PBC Ordinance. We found a few instances of ineligible owners of residential properties receiving PACE funding. Additionally, we found some weakness in internal controls for policies and procedures relating to documenting compliance with the Ordinance. Written policies and procedures provide notice of an agency's expectations and practices, and provide a source of continuity and a basis for uniformity and consistency in operations. Developing written policies and procedures for verification of property owners' eligibility could decrease the risk of ineligible property owners receiving PACE funding.

The risks for the homeowner's inability to repay the tax assessment will decrease when the financial and program eligibility requirements of the Ordinance are properly documented. This also increases the effectiveness of the consumer protections in the PACE Ordinance.

The OOR's administration of the program could be enhanced by establishing policies and procedures requiring PACE Districts and/or providers to verify program eligibility where compliance with certain requirements can be assessed by review of publicly available records. Policies and procedures may address issues such as, documenting the project file to include:

- Review of the Tax Collector's website for publicly available information regarding property tax or other assessment delinquencies;
- Review of the Clerk & Comptroller's website for publicly available information regarding notices of default or other evidence of property-based debt delinquencies that have been recorded;

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<sup>14</sup> Terminology used amongst providers varied but the purpose is similar, for property owners to acknowledge certain representations regarding property.

- Review of the Property appraiser's website for the just/fair market Value to ensure compliance with the Ordinance section 7, subsection (2)(a), (f), and (g);
- Property owner's program eligibility was verified.

The U.S. Department of Energy (DOE) publishes a “*Best Practice Guidelines for Residential PACE Financing Programs*”, dated November 18, 2016. The guide is available for download on the DOE website.<sup>15</sup>

DOE’s guide states as a best practice:

## 2. Establish Eligibility Criteria

State and local laws treat PACE assessments differently; however, PACE program administrators should design consistent eligibility criteria and standardized procedures to determine the financial eligibility of a property and its owner.

The best practices include:

- 2.1 Verifying Property Ownership
- 2.2 Confirming Property-Based Debt, Tax Assessments, and Property Valuation
- 2.3 Reviewing Property Owner Income and Debt Obligations

OOR should also consider policies and procedures to include standardized reporting requirements with more substantial information on complaints for OOR to assess the severity and recurrence of specific issues and complaints.

### **Recommendation:**

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- (1) **The OOR considers implementing policies and procedures to require the Districts and/or providers to document the independent verification of property owner eligibility for PACE funding and require Districts to supplement the quarterly reports with detailed information about complaints, such as the nature, severity, and recurrence of specific issues with contractors.**

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<sup>15</sup> DOE Updated Guidelines for Residential PACE Financing Programs, July 8, 2016.

<https://www.energy.gov/eere/slsc/articles/updated-guidelines-residential-pace-financing-programs>

**RESPONSE FROM MANAGEMENT**

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, the Palm Beach County Office of Resilience was provided the opportunity to submit a written explanation or rebuttal to the findings and recommendation as stated in this Contract Oversight Report within ten (10) calendar days.

OOR's response was, "Thank you for the opportunity to review the report and letting me provide feedback by phone on Sept. 23. We agree with the finding and accept the recommendation."

**ACKNOWLEDGEMENT**

The Inspector General's Contract Oversight & Evaluations Division would like to extend our appreciation to the Palm Beach County Office of Resilience, the PACE Districts, and the PACE Providers for the cooperation and courtesies extended to us during the review process.

*This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Director of Contract Oversight & Evaluations by email at [inspector@pbcgov.org](mailto:inspector@pbcgov.org) or by telephone at (561) 233-2350.*