

APPENDIX C

C. Tier III: Performance-Based Incentives for Energy Efficiency

SECTION 1: PROGRAM DESCRIPTION

The performance-based incentives in the **New York Energy \$martSM** Enhanced C/I Performance Program were developed by NYSERDA to support energy service providers and to encourage consumers to invest in the installation of energy efficiency equipment. This performance-based program offers incentive payments to contractors, often called energy service companies or ESCOs, that develop projects delivering verifiable annual energy savings. The average annual energy savings must be verified for up to a two-year period following project installation.

In order to participate in Tier III of the Enhanced C/I Performance Program, ESCOs and Customers must meet minimum eligibility criteria, comply with all program rules and procedures, submit standard forms and supplemental documentation describing their projects, and enter into a Standard Performance Contract (SPC) Agreement with NYSERDA. ESCOs must also adhere to measurement and verification (M&V) guidelines and reporting requirements throughout the term of the SPC Agreement.

SECTION 2: ELIGIBILITY

2.1 ESCO ELIGIBILITY

A qualifying ESCO is a business entity that provides any or all of the following services: energy engineering, energy efficiency measure design, equipment installation, equipment maintenance, and financing services on a performance contracting basis. The ESCO must submit a certification indicating that the work is to be performed by the ESCO and not the customer or agent of the customer. Energy marketers are encouraged to participate and offer energy efficiency as a value-added service. (See Section 5, SPC.3, Short-Form Agreement.)

To encourage broad participation, there are limitations on the incentive amount a single ESCO can receive:

- ❑ An ESCO is limited to receiving no more than \$5,000,000 for performance-based incentives under Tier III for energy efficiency projects.
- ❑ An ESCO may not collect more than \$1,000,000 for a project or group of projects with a single customer for performance-based incentives under Tier III for energy efficiency projects.

For purposes of these limitations, corporate affiliations will be aggregated, with the ESCO defined at the highest level of vertical corporate integration, including all subsidiaries.

NYSERDA does not provide a list of pre-approved ESCOs/contractors that can participate in the Enhanced C/I Performance Program. NYSERDA offers an updated list of ESCOs/contractors who have

participated or are participating in the Program. The ESCO/contractor list can be located on NYSERDA's website under PON 1101.

2.2 CUSTOMER ELIGIBILITY

This program is open to facility owners or tenants currently paying the NYS System Benefits Charge (SBC) who agree to remain utility distribution customers paying SBC for the duration of the SPC Agreement and to Con Edison firm gas customers who meet the eligibility criteria described below.

For electric measures, all classes of commercial, and industrial customers that meet program requirements are eligible. A facility that generates 100% of the electricity it consumes pays no SBC and is, therefore, ineligible. The maximum award for a single customer under this PON is \$1,000,000. Contact NYSERDA with any questions regarding customer eligibility.

For electrical efficiency projects only, the SBC incentive will be reduced if the customer fails to pay the SBC for the entire term of the SPC Agreement. Specifically, if the customer fails to pay the SBC for the entire performance phase, the incentive will be reduced by the same proportion as the period of time that the SBC is not paid during the performance phase. If the customer fails to pay the SBC prior to the performance phase, the entire incentive will be forfeited.

In the event the customer pays the SBC on less than 50% of the total electric consumption at the site, only the portion of the electrical consumption at the site for which the SBC is paid will be used to calculate the incentive. Energy efficiency measures electrically served by co-generation units are not eligible for funding.

For gas efficiency projects, eligible Con Edison firm gas customers include commercial facilities that currently receive natural gas under one of the Consolidated Edison Company of New York's firm gas service classifications SC1, SC2, SC3, or SC13 and corresponding SC9 firm transportation customers and are assessed the Monthly Rate Adjustment (MRA) and agree to remain on any of the above listed rates for the duration of the SPC Agreement.

Eligible customers also include Con Edison electrical distribution customers paying the Monthly Adjustment Clause (MAC). The MAC tariff is paid by customers served under the Full Service Schedule, except for SC 11, and by customers served under the Retail Access Rate Schedule, except for SC 15-RA.

2.3 MEASURE ELIGIBILITY

Eligible energy efficiency measures must reduce energy consumption at the project site. This reduction must be measurable and verifiable. Table 1 and Table 2 provide a list of pre-approved measures. Fuel switching from gas to another energy source is not eligible for funding.

For PON 1101 lighting standards, see Appendix A, Table of Standard Lighting Fixtures of the Procedures Manual on NYSERDA's website under PON 1101.

Motors installed under this solicitation must meet minimum efficiency standards to be eligible for incentives. The efficiency standards follow National Electrical Manufacturer's Association (NEMA) premium efficiency motor levels. See Appendix B, Equipment Efficiency Standards of the Procedures Manual on NYSERDA's website under PON 1101.

For cooling efficiency measures, the efficiency of the installed equipment must exceed the current ASHRAE 90.1 - 2004 Standard (i.e. kW/ton, COP) by 2%. See Appendix B, Equipment Efficiency Standards of the Procedures Manual on NYSERDA's website under PON 1101.

For minimum efficiency standards for eligible gas measures, see Appendix B, Gas Efficiency Standards, of the Procedures Manual. Table 2 provides a list of pre-approved measures.

Table 1
Pre-Approved Measures for all Eligible Customers

<p><u>Lighting Technologies:</u> T-5 or T-8 lamps: Eligible technologies include fluorescent lamps with electronic high-efficiency ballasts.</p> <p>Occupancy Controls: Infrared or ultrasonic occupancy sensors and interface installed where existing controls do not exist.</p> <p>Daylight Dimming Controls: Photocell control system to adjust lighting level installed where existing controls do not exist.</p> <p>Incandescent to Compact Fluorescent Lamp: Compact fluorescent lamps (CFLs) to replace standard incandescent lamps. CFLs must meet or exceed ENERGY STAR Program requirements. If a screw-base CFL will be installed without a locking device, the M&V plan must include an acceptable restocking/replacement plan.</p> <p>High Pressure Sodium or Metal Halide: High-pressure sodium or metal halide fixtures to replace mercury vapor lamps.</p> <p>Pulse-Start Metal Halide: Pulse-Start Metal Halide to replace less efficient lighting.</p> <p>ENERGY STAR LED Exit Signs: Light emitting diode exit signs to replace standard incandescent signs.</p> <p>ENERGY STAR LED Traffic Signals: Continuous operation signals. Red or green incandescent traffic signal lights replaced with light emitting diode traffic lights and pedestrian signals.</p> <p><u>Motors/Other Pre-Approved Measures:</u> Premium Efficiency Motors: Permanently wired motors over 1 hp, operating over 2,000 hours per year.</p> <p>Variable Speed Drives: VSD motor control to replace single speed motor control. Savings calculated on direct motor savings only.</p>	<p>Economizer: System must use outside air to reduce cooling or heating loads and operate automatically. Does not include repair of an existing economizer.</p> <p>EMS System: Energy Management System controlling HVAC, lighting loads or air compressor systems. Does not include repair or activation of an existing EMS system.</p> <p>ENERGY STAR Heat Pumps: Must meet minimum applicable Energy Efficiency Ratio (EER), Seasonal Energy Efficiency Ratio (SEER), and Higher Seasonal Performance Factor (HSPF).</p> <p>ENERGY STAR Refrigerated Vending Machines: Vending machine with electronic ballasts, improved fan motor and compressor.</p> <p>Refrigeration: Process cooling and ice rink improvements, including conversions of electric to non-electric refrigeration.</p> <p>Air Compressors: Commercial or industrial applications for high-efficiency air compressors replacing less efficient equipment.</p> <p><u>Cooling Measures:</u> Technologies that reduce summer on-peak demand. (Efficiency of the installed equipment must exceed the current ASHRAE 90.1 - 2004 Standard (i.e. kW/ton, COP) by 2%).</p> <p>Unitary A/C Unit Replacement: Factory made direct expansion space cooling system with self contained or matched split evaporator coils.</p> <p>Chiller Replacement: New chiller and associated condenser resizing for space cooling applications only. Chilled water loop pump and condenser motor controls will be funded under the motor category if the chiller is not replaced. Conversions of electric chillers to non-electric (i.e. steam or natural gas) are eligible.</p>
--	--

Table 2
Pre-Approved Gas Measures for Eligible Con Edison Commercial Customers

High Efficiency Boilers and Furnaces: Replacements of boilers and furnaces used in commercial or industrial applications for space heating or process purposes. Boilers and furnaces must meet minimum efficiency requirements based on size and type. Installation of summer boilers are ineligible.

Infrared Heaters: Replacements of standard gas unit heaters with infrared heaters.

Storage Water Heaters: Water heaters less than 75,000 Btuh must meet energy factor $\geq .61$, for those $\geq 75,000$ Btuh must meet thermal efficiency of 82%.

Stack Economizers: Equipment that recovers stack gas waste heat and uses it to preheat water to water heaters.

HVAC Heat Recovery: Equipment that recovers thermal efficiency from exhaust air and uses it to preheat supply air.

Table 3 provides a list of measures that are not eligible under the Enhanced C/I Performance Program. Any measures that are not listed in Table 1 or Table 2 will be considered for eligibility as a custom measure by NYSERDA on a case-by-case basis.

Table 3
Measures Not Eligible Under the Program

Measures with a useful life of under 5 years

All measures that are below Federal and State minimum standards

All measures affecting building plug loads, such as "Green Plugs" or computer inactivity time-out controls

Measures that save energy through operational changes (i.e., changing hours of operation or function of a facility)

Generation and co-generation (except by renewables)

Interactive effects

Measures funded by the New Construction Program, Peak-Load Reduction Program, or other SBC-funded load management programs (i.e. Aggregated Demand Program), or other Con Edison (utility-sponsored) Demand Programs.

Measures that reduce voltage such as power reducers

Power factor correction or conditioning devices

Repair or maintenance measures

2.4 CUSTOM MEASURES

For measures that are not pre-approved, the ESCO must provide profile data, including the cost of the measure, annual kWh savings, and, if available, summer/winter, on-peak and off-peak energy and capacity savings. A pre-approved measure is not eligible for higher incentives as a custom measure. Custom measures with simple payback of less than one year are ineligible for funding.

NYSERDA will review profile information provided by the ESCO to determine if a custom measure is cost-effective on a resource cost basis.

An ESCO may submit the profile data for a custom measure to NYSERDA with the application, or prior to the application to obtain an earlier determination of the incentive rate. Contact NYSERDA for additional information about custom measures and expected incentive rates.

2.5 PROJECT ELIGIBILITY

Except as provided below in Section 2.6 for aggregation of sites, only projects that have estimated savings that yield an incentive of at least \$5,000 are eligible.

For the purpose of meeting the eligibility requirements, a project consists of all energy efficiency measures and any associated equipment or improvements that are installed, maintained, or operated by a particular ESCO to achieve the energy savings claimed within a single SPC Agreement. A site may consist of one or several adjacent buildings owned or operated by a single customer. Buildings owned or operated by a single electric and/or gas customer on a contiguous site may not be treated as separate sites, although they may be treated as separate projects at the ESCO's option. One project may include multiple sites with different owners.

2.6 AGGREGATION OF SITES

Aggregation of sites on one application is encouraged. Applications may be submitted for:

- Up to five sites with different measures and energy usage profiles that meet the minimum incentive threshold of \$5,000; or
- An unlimited number of sites with identical measures, energy use profiles, and M&V plans designated as one project; or
- Five or more aggregated sites, that do not meet the \$5,000 threshold level.

2.7 EXISTING COMMITMENTS INELIGIBLE

An energy efficiency measure is ineligible if there is an existing or prior commitment or obligation (e.g., a contract or purchase order, or material is on hand) for the purchase/installation of a measure included in the Project Application at the time such application is submitted to NYSERDA. An exception is allowed if an application was submitted to NYSERDA's Peak Load Reduction Program prior to entering into a contract for installation.

2.8 OTHER LIMITATIONS

Measures receiving funds from NYSERDA's New Construction Program, Peak-Load Reduction Program, Aggregated Demand Program, Tier I or II Enhanced C/I Performance Program (ECIPP) or other Con Edison (utility sponsored) Demand Programs are ineligible for Tier III ECIPP incentives.

2.9 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

NYSERDA is subject to the provisions of the State Environmental Quality Review Act (SEQRA), implementing regulations of the New York State Department of Environmental Conservation (DEC), and implementing regulations of NYSERDA. Funding will not be released for a Project that has not complied with SEQRA. Activities may qualify as Type I, Type II, or unlisted actions. A Type I activity is likely to have a significant effect on the environment and requires an environmental impact statement (EIS); a Type II action has been determined not to have a significant effect on the environment; an unlisted action must be reviewed to determine if an EIS is appropriate. The pre-approved measures in Tier III of the Enhanced C/I Performance Program, except chillers rated over 5 million BTUs per hour (>417 tons), are generally eligible to be treated as Type II actions. NYSERDA will require the ESCO to provide an Environmental Assessment Form (EAF) with the Detailed Energy Analysis for any unlisted action included in the Project.

SECTION 3: TIER III INCENTIVES

Up to \$30 million is available under this PON, as described below:

- Up to \$29 million is available to all eligible customers.
- Up to \$1 million is available under five different **New York Energy SmartSM** programs administered by NYSERDA, including the Enhanced Commercial/Industrial Performance Program, for Con Edison firm gas customers.

3.1 ENERGY EFFICIENCY AND DEMAND REDUCTION INCENTIVES

Energy Efficiency Incentives

Energy efficiency incentive rates are shown in Table 4. A project's total incentive is calculated by multiplying these rates by one full year of energy savings achieved by the project.

Table 4
Energy Efficiency Incentive Rates

Measures/Technologies for all Eligible Customers	Incentive Rates
Lighting Only	5¢ per kWh
Motors & other pre-approved measures	10¢ per kWh
Cooling	20¢ per kWh
Custom Measures	To be determined
Gas Measures: Eligible Con Edison firm gas customers.	\$1.00 per therm saved

Definition of Summer On Peak: Summer on-peak is the period May 1 to October 31 and the hours between 12 pm and 6 pm, Monday to Friday, excluding holidays.

Chiller and Lighting kW Bonus for Con Edison Customers

An additional incentive of \$500 per kW will be paid for summer on-peak demand reductions resulting from the installation of higher efficiency electric chiller and unitary A/C units and for electric to gas/steam chiller conversions used for space conditioning. An additional incentive of \$200 per kW will be paid for summer on-peak demand reductions resulting from the installation of higher efficiency lighting (does not include lighting control measures).

The Lighting kW Bonus is calculated as follows:

Lighting kW Bonus = [(Total typical day kWh savings between 12 pm and 6 pm) / 6 hours] x \$200/kW

Note: Typical day is based on the summer on-peak period, as defined above.

The Chiller kW Bonus for electric to electric chillers is calculated as follows:

Chiller kW Bonus = (*Peak Operating Tons) x [kW/ton_{baseline} - kW/ton_{proposed}] x \$500/kW

Note: The full load efficiency (kW/Ton) of the installed equipment must exceed the current ASHRAE 90.1 - 2004 Standard by 2%.

The Chiller kW Bonus for electric to non-electric (i.e. gas/steam) chiller conversions is calculated as follows: Chiller kW Bonus = (*Peak Operating Tons) x [(kW/ton_{baseline} - 0.1 kW/ton_{parasitic load})] x \$500/kW
Note: The full load efficiency (kW/Ton) of the installed equipment must exceed the current ASHRAE 90.1 - 2004 Standard by 2%, as applicable.

***Peak Operating Tons** are based upon the summer on-peak period May 1 to October 31 and the hours between 12 pm and 6 pm, Monday to Friday, excluding holidays.

Example 1: Lighting kW Bonus Calculation (Con Edison Customers):

A lighting efficiency project is proposed for a typical small office building. The ESCO submits the Equipment Lighting Form (EFL) detailing the existing and proposed equipment. The existing and proposed connected lighting load (kW) is 154 kW and 74 kW, respectively. The annual operating hours are 3,760 hours and the total annual kWh savings are 300,800 kWh. The ESCO determined that for a typical day during the summer on-peak period, the kWh savings were 384 kWh. The Lighting kW Bonus would be calculated as follows:

$$\text{Lighting kW Bonus} = (384 \text{ kWh}/6 \text{ hours}) \times \$200/\text{kW} = \$12,800 \blacksquare$$

Example 2: Chiller kW Bonus Calculation (Con Edison Customers- Electric Chiller Upgrade):

In a commercial building, an existing 1,000-Ton water cooled electric centrifugal chiller is proposed to be replaced with a new chiller of the same type and capacity. The existing chiller has a full-load nameplate rating of 0.7 kW/ton. The proposed chiller has an efficiency rating of 0.56 kW/ton. Note that the new chiller exceeds ASHRAE 90.1 - 2004 by 2%. The ESCO determined through chiller logs and engineering analysis that the peak operating tons was 800 tons. The Chiller kW Bonus would be calculated as follows:

$$\text{Chiller kW Bonus} = (800 \text{ Tons}) \times (0.7 \text{ kW/Ton} - 0.56 \text{ kW/Ton}) \times \$500/\text{kW} = \$56,000 \blacksquare$$

Projects receiving either the Chiller kW Bonus or Lighting kW Bonus must adhere to applicable measurement and verification requirements. M&V of the chiller is needed to determine actual energy savings and Peak Operating Tons and M&V of the lighting kW will require at a minimum; documented EFL quantities and post installation inspection.

Individual sites with consumption of one million kWh per year or more (“large sites”) are eligible for the incentives listed in Table 4. Prior to project approval and installation, the ESCO must estimate the energy efficiency incentive based on the estimated energy savings. Multiplying the energy savings by the appropriate incentive rate will yield the estimated energy efficiency incentive. The estimated energy savings amount will be included in the SPC Agreement upon project approval. For projects consisting of different measures or demand reduction bonuses, the savings associated with each measure will be multiplied by the appropriate rate and the results will be added together to estimate the total incentive.

Small Site Bonus

Individual sites with consumption below one million kWh per year (“small sites”) are eligible for an additional 20% over the electric efficiency incentives listed in Table 4 but are not eligible for an additional 20% over the chiller and lighting kW bonuses. The total electrical consumption for all buildings at a site (not only the buildings included in the application) is used to determine if a site is

eligible for the additional 20% electric efficiency incentive. Aggregated projects may include both large and small sites. In such cases, only the incentives for the small sites will be calculated with the 20% increase.

3.2 TOTAL PROJECT INCENTIVE

The total contracted project incentive is the sum of the energy efficiency incentive, any small site bonus, and M&V reduction included in the SPC Agreement. The total contracted project incentive paid to an ESCO may not exceed 30% of the total project cost. For these purposes, total project cost includes all costs directly associated with the energy savings of the project including, but not limited to: the Detailed Energy Analysis; energy efficiency measure design, procurement and installation; measurement and verification of energy savings (where the ESCO is responsible for M&V); and ESCO overhead and profit. Where a project includes more than one customer, the 30% limit applies to each customer individually.

After NYSERDA's approval of the Detailed Energy Analysis, the ESCO may request a progress payment after the project installation is underway and the ESCO has incurred expenses for materials and equipment. This progress payment can be up to 40% of the total contracted project incentive, not to exceed 50% of the documented expenditures. Documented expenditures such as equipment invoices must be presented to NYSERDA. Progress payments will be based on the lesser of the approved Detailed Energy Analysis amount or the total contracted project incentive in the SPC Agreement.

The installation payment will be issued after the project is installed by the ESCO and the Project Installation Report is reviewed and approved by NYSERDA. The payment amount will be based on 60% of the total contracted project incentive less any progress payment, unless estimated savings in the Project Installation Report have been reduced. If the estimated savings in the Project Installation Report have been reduced, then the payment amount will be based on 60% of the approved Project Installation Report amount less any progress payment.

Based on the duration of the M&V period and the required reports in the approved M&V plan, either one or two performance payments will be made for the actual verified energy savings. These payments will be made after the ESCO's M&V reports have been approved by NYSERDA. Depending on the M&V results, the performance payment(s) will be for up to the balance of the total contracted project incentive due under the SPC Agreement. Incentives will not be paid for energy savings in excess of 100% of the total contracted project incentive. Refer to Part B, Section 6, of the Tier III Procedures Manual for more detail.

SECTION 4: TIER III PROCEDURE OVERVIEW

Tier III of the **New York Energy SmartSM** Enhanced C/I Performance Program includes two basic phases: project planning/installation, which occurs prior to and just after installation of the energy efficiency measures; and project measurement and verification (M&V) activities, which occur after the energy-efficient equipment is installed and operating. An overview of the process is shown in Figure 1 and includes a relative timeline for all tasks. Tier III Program Procedures Manual provides a detailed discussion of program steps 2 to 9.

1. Project Application (PA). The first step in the process is for the ESCO to submit a completed Project Application for its proposed project. The Project Application includes information about the facility, where the proposed project will be installed, and a general project description, including estimated energy savings and incentive payments and a copy of a recent electric and gas utility bill.

By submitting a Project Application, the ESCO requests that funding be reserved for a proposed project at a specified customer site. The Project Application also informs NYSERDA that the ESCO has gained approval from the customer to pursue project development.

Project Applications will be accepted until March 31, 2008 for electrical efficiency projects or until September 27, 2007 for gas efficiency projects, or until the funding has been fully committed, whichever comes first. See NYSERDA's website under PON 1101 to determine remaining funds.

The Customer and ESCO will each be required to complete a survey at the Project Application phase. The survey can be obtained on NYSERDA's website under PON 1101.

2. Responsibility for Measurement and Verification. The ESCO must indicate in the Project Application whether the ESCO or NYSERDA will be responsible for M&V. If NYSERDA is responsible for M&V, the total incentive will be reduced by 25% and payments to the ESCO will remain performance-based. An ESCO that is considering having NYSERDA take responsibility for M&V should discuss this with NYSERDA before selecting this option. M&V requirements and sample plans are presented in Part B of the Tier III Procedures Manual, and NYSERDA will assist the ESCO in developing an M&V plan.

3. SPC Agreement. Incentive funds for a project are reserved only upon NYSERDA's written approval of the ESCO's Project Application and offer of the SPC Agreement. Continued reservation of the incentive funding is contingent upon the ESCO signing the SPC Agreement within 30 days and submitting an acceptable Detailed Energy Analysis within 60 days for lighting projects and 90 days for all others, after Project Application approval.

The SPC Agreement, signed by both the ESCO and NYSERDA, specifies the total contracted project incentive.

4. Detailed Energy Analysis (DEA). The Detailed Energy Analysis contains detailed information about the existing and proposed equipment, including equipment counts, efficiencies, operating schedules, nameplate data, building occupancy, and engineering calculations used to estimate energy and demand savings.

Unless the ESCO elects to have NYSERDA take responsibility for M&V, the Detailed Energy Analysis must also include an M&V plan developed by the ESCO detailing how savings will be verified, including who will do the work, what type of metering equipment will be used, when the metering will be done, and the calculation and calibration methods to be used.

If applicable (i.e., projects receiving incentives of \$75,000 or more), it is required that the applicant submit a bench-marking score from EPA's Portfolio Manager under the ENERGY STAR® Program as part of the M&V Plan.

NYSERDA, or its Technical Consultant, will conduct a pre-installation project site inspection to verify the accuracy of the information in the Detailed Energy Analysis with regard to both existing conditions and the feasibility of installing the proposed equipment. The Detailed Energy Analysis must be approved by NYSERDA. NYSERDA's approval is limited to the reasonableness of the savings estimates for the identified measures and the M&V plan if the ESCO is responsible for M&V.

5. Progress Payment. Following the approval of the Detailed Energy Analysis and after equipment costs are incurred, the ESCO may submit an invoice for up to 40% of the total contracted project incentive, not to exceed 50% of the documented expenditures. Progress payments will be based on the lesser of the approved Detailed Energy Analysis amount or the total contracted project incentive in the SPC Agreement.

6. Project Installation Report (PIR). After approval of the Detailed Energy Analysis, the ESCO has 12 months to install the energy efficiency measures at the customer's site. After the measures have been installed, the ESCO submits a Project Installation Report to NYSERDA. The Project Installation Report contains a detailed description of the installed energy efficiency equipment and operating conditions at the customer's site(s). Any changes to the estimated energy and demand savings are also documented. Once the ESCO has submitted its Project Installation Report, NYSERDA's Technical Consultant will conduct a post-installation inspection of the customer's site(s) to verify that the energy efficiency equipment specified in the approved Detailed Energy Analysis has been installed properly and is operating according to its design intent. NYSERDA's approval of the PIR is contingent upon the results of this post-installation inspection.

The customer and ESCO will each be required to complete a second survey following the project completion. The survey for post construction can be found on NYSERDA's web site under PON 984.

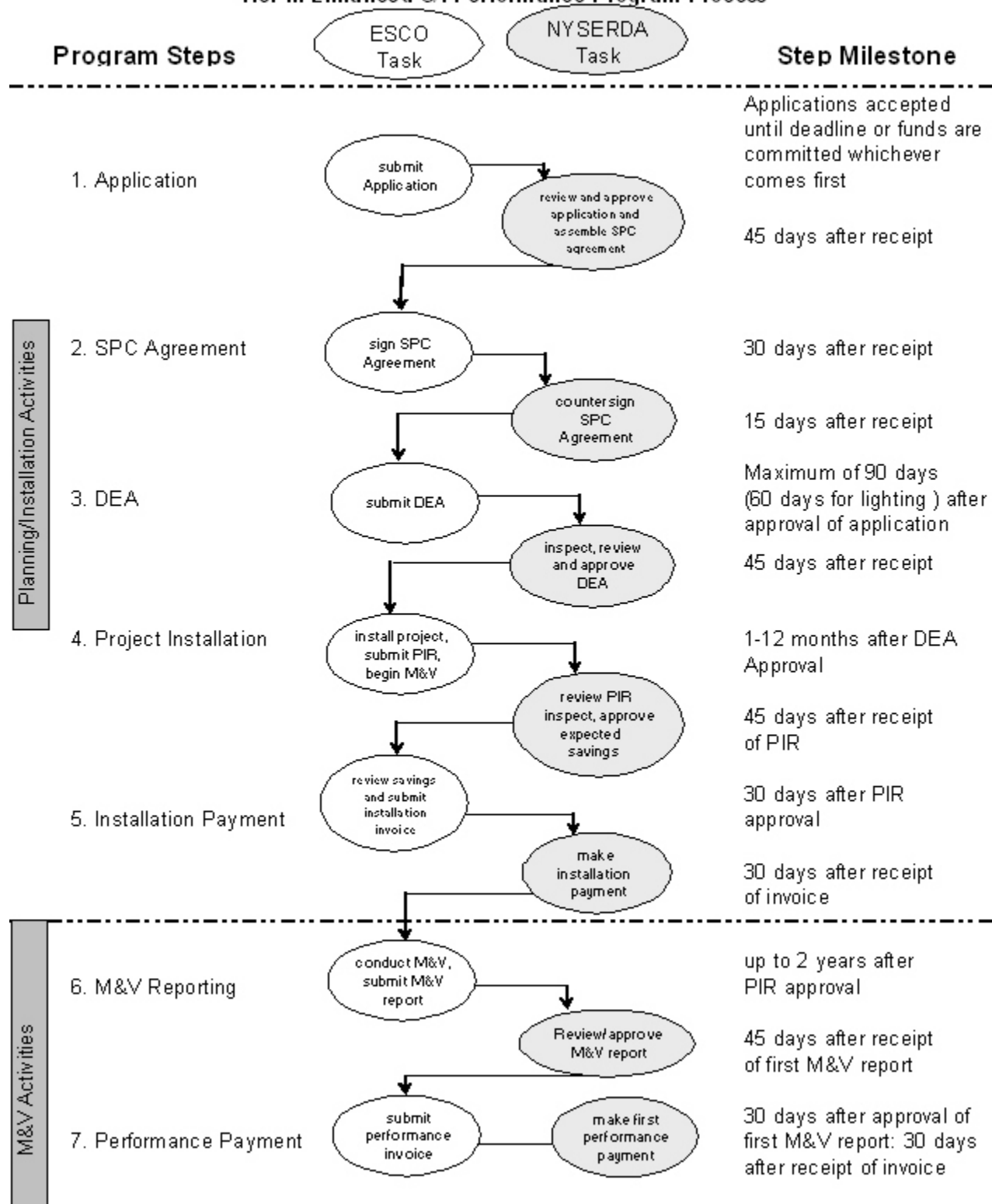
7. Installation Payment. Once NYSERDA approves the Project Installation Report, the ESCO may submit an installation invoice for the balance of up to 60% of the estimated energy efficiency, and small site bonus, and any kW bonus based on the energy and demand savings in the Project Installation Report, provided they do not exceed the total contracted project incentive. NYSERDA will then process the invoice and provide the ESCO with its installation payment.

8. M&V Reporting. During the performance period, the ESCO or NYSERDA must conduct M&V activities as specified in the M&V Plan. Within 60 days following the end of the performance period, the responsible party must prepare an M&V Report. The M&V Report must include clear and verifiable data and describe the baseline assumptions and calculations used to calculate actual energy savings. The M&V Report results will become the basis for the performance payment amounts.

9. Performance Payments. NYSERDA will issue performance incentive payments after reviewing, verifying, and approving the M&V Report(s). Each payment will be based on 20% of the total verified energy savings, after adjusting for differences between the estimated and verified energy savings. The sum of the progress payment, the installation payment, and the performance payments may not exceed 100% of the total contracted project incentive included in the SPC Agreement.

After each report submittal, NYSERDA will notify the ESCO in writing as to whether or not the submissions (PA, DEA, PIR, M&V reports) have been approved and the amount of the approval.

**Figure 1
Tier III Enhanced C/I Performance Program Process**



SECTION 5: TIER III APPLICATION PROCEDURES AND FORMS

This section presents the procedures for submitting the incentive application and a discussion of its content.

The application must be received by NYSERDA before the customer and the ESCO make a commitment for the purchase/installation of the equipment. See Section 2.7.

5.1 SUBMITTING THE APPLICATION

The submittal of an application is an ESCO's first step. By submitting the application, an ESCO is asking NYSERDA for approval to proceed with the development of an energy efficiency project that may be eligible for inclusion in the program. The application also demonstrates to NYSERDA that the ESCO has approval from the customer to develop the project at the customer's site. If the application is approved, NYSERDA will reserve funding for the project for a specified period of time.

Submittal and Notification Schedule

NYSERDA will accept applications for Tier III of the Enhanced C/I Performance Program until March 31, 2008 for electrical efficiency projects or until September 27, 2007 for gas efficiency projects, or until the funding has been fully committed, whichever comes first. The terms of this PON are effective as of November 15, 2006 and will apply to applications received on or after that date. NYSERDA will post the availability of funds for the program on its web site under PON 1101, on a regular basis to allow potential ESCOs to determine if funds are still available and to allow for longer-term planning. NYSERDA will not reserve funds for any project if funds have already been reserved by another ESCO for the same project. NYSERDA will accept applications and reserve funding on a first-come, first-served basis. Applications received on the same day will be selected by lot if it appears that the combined potential incentive of those applications will exceed remaining Program funds.

An original and a copy of the application and utility bill must be submitted. (See Section 6.1 for additional instructions.)

ESCOs that submit an application for a single-site project can expect to receive a written acceptance or rejection notice from NYSERDA within 45 days of NYSERDA's receipt of the application. Multiple-site projects may require more time. NYSERDA will not review or approve applications for a multiple-site project if the documentation for each of the sites is incomplete. No partial reviews or approvals will be made.

Application Approval or Rejection

NYSERDA will review the contents of the application to determine the following: (a) funding is available, (b) the project meets all Program requirements and (c) all required information is properly documented and presented as specified in this PON.

If the application is approved, NYSERDA will reserve a finite amount of funds for either a 60-day or a 90-day period, depending on the type of project. During this time period, the ESCO must execute the SPC Agreement and prepare a Detailed Energy Analysis and M&V plan, if the ESCO has not elected to have NYSERDA perform the M&V. The Detailed Energy Analysis must be submitted to NYSERDA within 60 days for lighting only projects or 90 days for all other projects. (Procedures for submitting the Detailed

Energy Analysis are discussed in detail in the Procedures Manual.) Unless the deadline to submit the Detailed Energy Analysis is extended in writing by the NYSERDA project manager, failure to submit the Detailed Energy Analysis within the specified time frame will be considered a default under the SPC Agreement.

If NYSERDA deems the application complete but incorrect, NYSERDA may make adjustments to the savings and incentive estimates and will notify the ESCO of any adjustments in writing.

NYSERDA may reject an application for a variety of reasons, including, but not limited to, the following:

- NYSERDA’s receipt of an application occurs after the deadline or after the Enhanced C/I Performance Program is fully subscribed.
- ESCO fails to meet Tier III Enhanced C/I Performance Program requirements.
- ESCO fails to submit all of the required supporting documentation, or application forms.
- ESCO willfully misrepresents the project or energy savings.

If NYSERDA deems the application incomplete or insufficient, NYSERDA will request clarification or additional information and the ESCO will have five days to respond to such request. If a timely response is not received, or the response is insufficient, NYSERDA may discontinue its review and reject the application. If the application is rejected, NYSERDA will notify the ESCO in writing, and release any incentive funding that may have been reserved for the project.

5.2 PARTS OF THE APPLICATION

The application includes the five forms listed in Table 5 and a copy of a recent electric utility bill and if applicable, gas utility bill. Each of these forms is discussed in the following sub-sections and a copy of each form is provided. Electronic versions of the forms that will simplify completion can be obtained from NYSERDA’s web site under PON 1101. http://www.nyserda.org/programs/EnhancedCommercial_Industrial/cipp.asp

TABLE 5
APPLICATION FORMS

FORM TITLE	Form Code	Required for Each
Project Summary	SPC.1	Application
Energy Efficiency Measure Information*	SPC.2	Site/Building
Gas Efficiency Measure Information*	SPC.2B	Site/Building
Short-Form Agreement	SPC.3	Application
Site Control Letter	SPC.4	Customer
Copy(s) of Utility Bill	N/A	Site/Building

* If the application contains more than one building, the electronic SPC.2 form will generate the required additional SPC.2 forms.

SPC.1: Project Summary

This standard form is used at each stage of the project, from the application through the M&V reporting. This form provides identifying information for the ESCO and customer information along with an incentive summary of the proposed project.

Above the ESCO signature line is a box that the ESCO will check if it elects to have NYSERDA take responsibility for M&V. The total incentive will be reduced by 25% for projects where NYSERDA is responsible for M&V, and payments to the ESCO will remain performance-based. NYSERDA will assist an ESCO in developing an M&V plan and an ESCO is encouraged to discuss this with NYSERDA before submitting an application requesting that NYSERDA perform M&V.

SPC.2: Energy Efficiency Measure Information

This standard form is required for each building included in the project and is updated at later stages of the project. For a project that involves a campus-type facility, the ESCO may contact NYSERDA to discuss completing the application on an energy efficiency measure basis rather than a building basis.

Information entered on an electronic version of SPC.2 is automatically transferred to the SPC.1 project summary. For multiple building projects, the applicant inputs the number of buildings in the project and multiple SPC.2 forms are automatically created. As information on individual buildings is inputted on the SPC.2 forms, the project incentive summary on SPC.1 is updated automatically.

Each measure category requires a detailed description of the project's proposed measures along with summary information.

At the application stage, the information is based on a preliminary audit of the site, and is approximate. This information will be refined at the Detailed Energy Analysis stage.

For a custom measure that was not approved by NYSERDA prior to application submittal, the ESCO must provide profile data, including the cost of the measure, annual kWh savings, and if available, summer/winter peak energy and capacity savings. Briefly discuss the proposed M&V option and method for the custom measure. NYSERDA will review the profile information and if approved determine the incentive rate for the custom measure.

Demand Reduction and Summer On-Peak Demand Reduction:

For each measure, the applicant must provide the Demand Reduction and the Summer On-Peak Demand Reduction on the form SPC.2. The Demand Reduction should be the change in connected load and include no diversification. The Summer On-Peak Demand Reduction should take into consideration the amount of kW reduction that is coincident with the summer on-peak period as described in Section 3.1 and should be diversified.

SPC.2B: Gas Efficiency Measure Information

If applicable, this standard form is required for each building included in the project and is updated at later stages of the project. At the application stage, the information is based on a preliminary audit of the site, and is approximate. This information will be refined at the Detailed Energy Analysis stage.

The applicant also verifies that the facility is an eligible Con Edison Firm gas customer to participate in the Program, See Section 2.2 for further details.

SPC.3: Short-Form Agreement

The Short-Form Agreement must be completed and signed by an authorized representative of the ESCO to demonstrate to NYSERDA that the ESCO acknowledges and understands the key requirements for participating in the Program.

The ESCO must disclose any indictment for an alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and must describe the circumstances for each. When an ESCO is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors, or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of the contract, NYSERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law that may apply in the particular circumstances. ESCOs must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

SPC.4: Site Control Letter

This form letter must be completed and signed by the customer to demonstrate to NYSERDA that:

- The customer intends to move forward with a project by allowing the ESCO to conduct a comprehensive energy audit and analysis.
- If the proposed project is acceptable, the customer intends to enter into a contract with the ESCO to complete the project.
- The customer acknowledges that, if they plan to enter into a contract with the ESCO under this Program, NYSERDA will require access to the customer's facilities to inspect relevant equipment and conduct M&V activities.

The customer acknowledges that NYSERDA will make program SBC incentive payments to the ESCO only as long as the customer continues to pay the SBC as part of its electric bill. A copy of a recent electric bill, or other documentation from the distribution utility of payment of the SBC, must be attached to the Site Control Letter for each building included in the project.

If seeking gas incentive payments, the customer affirms that they are on a Con Edison firm gas service classification SC1, SC2, SC3, or SC13 and corresponding SC9 firm transportation and is assessed the Monthly Rate Adjustment (MRA).

If seeking chiller or lighting kW bonuses for projects in Con Edison service territory, the customer affirms they are a Con Edison electrical distribution customer paying the Monthly Adjustment Clause (MAC). The MAC tariff is applicable to customers served under the Full Service Schedule, except for SC 11, and to customers served under the Retail Access Rate Schedule, except for SC 15-RA.

SECTION 6: ADDITIONAL PROGRAM INFORMATION

6.1 PREPARING AND SUBMITTING MATERIALS

All submissions for NYSERDA's Tier III Enhanced C/I Performance Program must be sent to the address listed below.

Enhanced C/I Performance Program Administrator
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

NYSERDA will date-stamp and log all program materials as they are received. NYSERDA recommends that ESCOs send all program materials via certified or registered mail. It is the sole responsibility of the ESCOs to ensure that NYSERDA receives applicable program materials at the designated address by close of business on or before the applicable due date. ESCOs should retain proof of delivery (such as a return receipt for certified, registered, or overnight mail) for all program materials submitted.

In the Application approval letter to the ESCO, NYSERDA will name the Technical Consultant assigned to the project. The Detailed Energy Analysis, Project Installation Report and M&V reports should be sent to NYSERDA with a copy sent directly to the Technical Consultant. (For the Project Application submission, the original and copy are sent to NYSERDA.)

6.2 REQUESTS FOR CLARIFICATION

NYSERDA, or the assigned Technical Consultant, may request clarification or additional information about any item within an ESCO's application or Detailed Energy Analysis. An ESCO will have five days to respond to such requests during the application review. If the clarification or additional information is not forthcoming, or is insufficient, NYSERDA may choose to discontinue its evaluation of the application and reject the application. If NYSERDA discontinues its review, NYSERDA will notify the ESCO in writing.

An ESCO will have up to 30 days to respond to an initial request for clarification or additional information during NYSERDA's review of the Detailed Energy Analysis. The ESCO will have only 10 days to respond to any subsequent request for clarification or information made by NYSERDA, whether the request is a follow-up request on the ESCO's response to NYSERDA's initial request or an additional request. However, the ESCO is allowed only two such subsequent requests by NYSERDA. If after an initial request and two subsequent requests the information needed is either not provided or insufficient, NYSERDA may elect to declare the ESCO in default under the SPC Agreement.

6.3 PROPRIETARY INFORMATION

The NYS Freedom of Information Law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d), provides for exceptions to disclosure for records or portions thereof that are "trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information that the proposer wishes to have treated as proprietary, and confidential trade information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. Such information will be treated in accordance with the provisions of Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

6.4 FALSE, MISLEADING, OR INCORRECT INFORMATION

NYSERDA reserves the right to discontinue its evaluation of all submittals from any ESCO that NYSERDA determines has submitted false, misleading, or incorrect information.

6.5 OMNIBUS PROCUREMENT ACT OF 1992

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement agreements.

Information on the availability of New York subcontractors and suppliers is available from Empire State Development, Division for Small Business, 30 South Pearl Street, Albany, NY 12245. A directory of certified minority- and women-owned business enterprises is available from Empire State Development, Minority and Women's Business Development Division, 30 South Pearl Street, Albany, NY 12245.

6.6 TIME EXTENSIONS

Time extensions beyond the standard program deadline of 60 or 90 days for completion of the Detailed Energy Analysis will be granted at the sole discretion of NYSERDA upon review of documentation of progress by the ESCO. Time extensions will not be granted without evidence of substantial progress in completing the Detailed Energy Analysis and a satisfactory explanation of the cause of the delay. Requests for extensions must be accompanied by a proposed revised schedule for completion of the Detailed Energy Analysis.

Time extensions beyond other standard program deadlines will be addressed in accordance with the SPC Agreement.

6.7 MEASUREMENT AND VERIFICATION OPTIONS

The options and methods used in NYSERDA's Tier III Enhanced C/I Performance Program are adopted from those defined in the 2002 International Performance Measurement and Verifications Protocol (IPMVP) and the 2000 Federal Energy Management Program (FEMP) M&V Guideline. Four basic options are outlined in the IPMVP:

Option A – Partially Measured Retrofit Isolation: Savings are predicted using engineering or statistical methods that do not involve long-term measurement. This option will generally be accepted only where other methods are not cost effective and the savings are very predictable and reliable.

Option B – Retrofit Isolation: Involves short-term or continuous metering during the performance period to determine energy consumption. Measurements are usually taken at the device or system level. NYSERDA prefers this option because of its higher accuracy level.

Option C – Whole Facility: Involves (1) comparing monthly billing data recorded for the whole building or project site by a utility meter or sub-meters, before and after project installation, and (2) analyzing that data to account for any variables, such as weather or occupancy levels. Energy savings can be determined once the variables are recognized and adjusted to match pre-installation conditions.

Option D – Calibrated Simulation: Involves using software to create a simulated model of a building based on blueprints and site surveys. The model is calibrated by comparing it with billing or end-use monitored data. Models of the project are typically constructed for (1) the existing base case, (2) a base case complying with minimum standards, and (3) a case with the energy measures installed.

For lighting projects with 600,000 kWh of annual savings or less, the ESCO may use Option A of the IPMVP for the measurement and verification plan. The ESCO must provide engineering support of the operating hours for the project. NYSERDA will review the engineering support of the savings and may reserve the right to require measurement and verification for projects where unreasonable operating hours or savings are claimed.

If an ESCO submits multiple applications of 600,000 kWh of annual savings or less for a lighting project at the same facility or customer, NYSERDA may disallow the use of Option A for measurement and verification.

The choice of an M&V option and method depends on the specific equipment being installed, the complexity and interaction of the energy efficiency measures, and the value of the incentive payments. Each available method is discussed in detail in Part B of the Tier III Enhanced C/I Performance Program Procedures Manual.

6.8 LIMITATIONS ON M&V COSTS

NYSERDA intends to require only cost-effective M&V requirements, incremental to those M&V activities called for in an ESCO/customer contract. If the incremental cost to conduct Tier III Enhanced C/I Performance Program-specific M&V activities is equal to or less than 15% of the total estimated incentive payment as defined in the Detailed Energy Analysis, the M&V cost is considered to be cost-effective. If, while preparing an M&V plan, an ESCO estimates that its Tier III Enhanced C/I Performance Program M&V costs will exceed 15% of the estimated incentive payment, the ESCO may contact NYSERDA to discuss how best to reduce costs.

For the purpose of discussing cost-effectiveness, Tier III Enhanced C/I Performance Program M&V costs are those costs directly associated with M&V activities and reporting and are necessary to meet the M&V requirements set forth in the SPC Agreement. Costs associated with energy audits, site surveys, program

non-M&V submittals, and regular inspections are not considered M&V costs since they would be required for any energy retrofit project. In addition, costs associated with M&V activities required for an ESCO/customer performance contract cannot be counted towards the 15% cost-effectiveness guideline. All claims where the M&V costs exceed 15% must be verifiable through documentation and are subject to NYSERDA's review.

6.9 DURATION OF M&V PERIOD

The standard M&V period is up to two years. However, for measures where the reliability and persistence of savings is high, a single year of M&V may be appropriate. It is useful to distinguish between efficiency measures and control measures in assessing the appropriate duration for M&V.

Efficiency measures involve the replacement of existing equipment with more efficient equipment on a one-for-one basis where the basic function, control and operation remain the same. Levels of persistence of savings are expected to be high based on demonstrated quality of installation and a single year of M&V. Examples include:

- Lighting efficiency
- Motors
- Unitary air conditioning
- Chillers
- Process equipment

For more complex measures, and those with significant interaction or dependence on customer interaction, the persistence of savings is less certain. These measures are often control related. Control measures involve a change in the control of the end-use and the persistence of savings is less certain. These projects require M&V to extend for up to two years. Examples include:

- Occupancy sensors/lighting control
- Variable-speed drives
- Energy management and control systems
- Economizers/free cooling cycles
- Process equipment control

To accommodate the different M&V requirements of these two categories of measures, NYSERDA has developed an accelerated M&V approach where a single M&V period is required. For projects that utilize the accelerated M&V approach, 60% of the total incentive will be paid after installation of the efficiency measures. The final incentive payment of 40% of the total incentive will be paid after the first year of savings verification. As with the standard M&V approach, the incentive payment will be reduced if verified savings are lower than the contracted amount.

NYSERDA's acceptance of an accelerated M&V approach will be determined on a case-by-case basis. NYSERDA and its consultants will review details of each measure and general facility characteristics with the participant prior to the determination of the approved M&V approach. Factors that will be considered include:

- Does the measure have a high level of anticipated persistence (certainty of savings)?

- Are the building and efficiency measure usage stable and consistent from year to year?
- Is there low interaction or dependency on other equipment at the facility?
- Would a two-year M&V period be cost-effective relative to the incentive?
- How well are the savings parameters supported within the detailed energy savings analysis and other documentation?
- Is the proposed M&V procedure thorough?

Examples of anticipated M&V approaches are:

Measure	M&V Approach
Lighting Efficiency	Accelerated
Lighting Control	Standard
Motor Efficiency	Accelerated
Unitary AC	Accelerated, but M&V must normalize savings using historical weather data.
Chiller	Accelerated, if all the chillers in the plant are retrofit, otherwise the standard M&V approach is required.
Process Equipment	Accelerated, if based on efficiency improvements and if hours of use are expected to be stable from year to year.
Variable Speed Drives	Standard
Energy Management Systems	Standard
Economizers/Free Cooling:	Standard
Process Control	Standard

Note that these are examples of anticipated levels of M&V. NYSERDA will make a final determination of the required M&V approach based on the specifics of each application, the proposed retrofits, and the facility.

6.10 ESCO DELEGATION OF RESPONSIBILITY FOR M&V TO NYSERDA

An ESCO may elect to have NYSERDA take responsibility for M&V. If NYSERDA is responsible for M&V, the total incentive will be reduced by 25% and payments to the ESCO will remain performance-based. NYSERDA will develop the M&V plan for ESCO approval following ESCO submission of the Detailed Energy Analysis. The M&V plan will follow the guidelines presented above and in Part B of the Procedures Manual.

An ESCO should discuss assistance available from NYSERDA in developing M&V plans before it elects to have NYSERDA take responsibility for M&V.