

<b>EE-01: Borrowing From Future Years</b>	
New York State Department of Public Service Office of Energy Efficiency & the Environment <b>Energy Efficiency Guidance</b>	
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<b>Issuance / Revision Date: 2013-02-25</b>	<b>Effective Date: 2013-02-25</b>

## **I. Purpose:**

This Energy Efficiency Guidance document is developed to provide guidance to OEEE Staff and to the Program Administrators in implementing and complying with requirements for “Borrowing from Future Years,” described in the October 25, 2011 Commission Order.<sup>1</sup>

Energy Efficiency Guidance documents are developed to clarify energy efficiency program issues and to provide guidance for Energy Efficiency Program Administrators and OEEE Staff in consistently interpreting and uniformly applying Public Service Commission Orders.

All Energy Efficiency Guidance documents are in effect until revised, rescinded or superseded.

## **II. Background:**

On October 25, 2011, the Public Service Commission reauthorized the majority of the Energy Efficiency Portfolio Standard (EEPS) programs that were scheduled to expire on December 31, 2011. The programs were reauthorized for a four-year period ending on December 31, 2015. The October 25, 2011 Order provided a set of rules under which program administrators are allowed to borrow funds from future years. This Energy Efficiency Guidance document provides guidance for implementing and complying with the “Borrowing from Future Years” rules. The October 25, 2011 Order language is as follows:

*“We find that the flexibility included in Staff’s recommendation represents a reasonable balance against the risk of premature depletion of program budgets, and the risk that borrowing may be needed simply because incentives are too generous. We will adopt Staff’s recommendation to allow for borrowing from future years, under the following restrictions: (1) intent to exceed the annual budget for a program must be filed with the Secretary four weeks in advance; the Director of OEEE may allow an exception to this rule to provide for minor end-of-year exceedances; (2) in*

<sup>1</sup> Cases 07-M-0548 and 07-G-0141, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule, issued October 25, 2011, Page 27.

*a timely manner, as determined by the Director of OEEE, the program administrator must submit an analysis of whether extraordinary spending levels are driven by customer incentives that are too high, including comparison with incentives for similar programs run by other program administrators; (3) subject to such filing and analysis, a program may be overspent by 20 percent per year; (4) with the concurrence of the Director of OEEE, a program may be overspent by more than 20 percent per year; (5) in aggregate for electricity or for gas, a program administrator's EEPS annual budget (including any carryovers from prior years) may not be overspent, except that with the concurrence of the Director of OEEE, aggregate spending may increase to 110 percent, provided that the program administrator has presented a plan for restoring aggregate spending to no more than 100 percent by December 31, 2015, which plan must demonstrate maintenance of a balanced portfolio; and (6) each program administrator will notify the Director of OEEE when aggregate spending for a budget year reaches 80 percent."*

### **III. Guidance:**

The October 25, 2011 Order provides six rules / restrictions pertaining to the borrowing of funds from future years. Guidance for implementing and complying with each of the six rules is provided in sections A through F below.

#### **A. Intent to Exceed Annual Program Budget**

1. Exceedance is based on "Percent of current annual budget spent." (Program Administrators should use the information in line 56 of the monthly scorecard. It should be noted that once the energy efficiency tracking database becomes operational, evaluation funds will not be included in the calculation.)
2. The program administrator should include a statement of intent to exceed the annual budget in the "Exceptions" section of the Program Narrative portion of the monthly report.
3. The purpose of this notification is to indicate when a "spend rate" exceeds a planned annual spend rate. There are situations when an actual spend rate may reasonably exceed the planned spend rate, such as when a program is "catching-up" due to under-performance in prior years. Even under such circumstances, the program administrator is obligated to provide a notification of an exceedance of the current year's annual budget, regardless of availability of previous years' funds, (i.e., for the purposes of the required notification, an annual budget remains the authorized annual budget for that particular year, not the annual budget plus unspent funds from previous years.)

#### **B. Analysis of Spending Levels and Customer Incentives**

1. When an annual budget notification is triggered, the program administrator shall calculate the percent of the incentives and services budget spent (i.e., divide the cumulative annual incentives and services spent by the annual incentives and services budget presented in the program implementation plan). The calculation, including the numerator, denominator and resulting percentage shall be included in the "Exceptions" section of the Program Narrative portion of the monthly report. This calculation should be updated and included in the "Exceptions" section of each subsequent monthly report

2. If the annual incentives and services budget has not been exceeded (i.e., the percentage is less than 100%), no additional analysis is needed until such time as the incentives and services budget is exceeded.
3. When the annual incentives and services budget is exceeded (i.e., the percentage is more than 100%), then the calculation described in B.1. above, along with a comparison of incentives for similar programs run by other program administrators, must be compiled and submitted by letter to the Director of OEEE with a copy to the Secretary. A notation and date of the letter should be included in the “Exceptions” section of each subsequent monthly report.

**C. Program may be overspent by up-to 20 percent per year, provided the following has been completed:**

1. Monthly report has been filed with the Secretary including an annual budget exceedance notice in the “Exceptions” section of the Program Narrative portion of the monthly report;
2. Monthly report has been filed with the Secretary including an analysis of incentives and services spending, showing the percent spent of the annual incentives and services budget (i.e., the calculation described in B.1. above); and
3. When the annual incentives and services budget has been exceeded, a letter and the required information described in B.3. above has been submitted to the Director of OEEE with a copy to the Secretary.

**D. Program may be overspent by more than 20 percent per year, provided all of the filings listed above in item “C “are completed and the following conditions are met:**

1. The program administrator has submitted a letter to the Director of OEEE with a copy to the Secretary which includes:
  - a. the calculation described in B.1. above;
  - b. a comparison of incentives for similar programs run by other program administrators;
  - c. supplemental information providing all information relevant to the program administrator’s request to exceed the annual budget by more than 20%, including responses to Staff inquiries and questions;
  - d. the amount of prior years’ unspent funds and/or the amount of prior years’ over expenditures; and
  - e. plans for modulating program intake to allow the program services to remain available through the EEPS 2 time period.
2. The Director of OEEE authorizes the greater than 20% exceedance of the annual budget.

**E. Aggregate gas or electric program portfolio spending may increase to 110% of aggregate gas or electric portfolio annual budget (including any carryovers from prior years), provided:**

1. The program administrator has submitted a plan to the Director of OEEE with a copy to the Secretary that:

- a. restores aggregate spending to no more than 100 percent by December 31, 2015, and
    - b. demonstrates the maintenance of a balanced portfolio.
  2. The Director of OEEE has approved the plan.
- F. Notification that aggregate spending (portfolio aggregate spending for gas or portfolio aggregate spending for electric) for a budget year reaches 80 percent of the gas or electric portfolio annual budget (including any carryovers from prior years):**
1. Aggregate spending for a program administrator's gas portfolio is the summation of all gas programs' year to date spending. Aggregate spending for a program administrator's electric portfolio is the summation of all electric programs' year to date spending.
  2. A program administrator should include a statement that aggregate spending has reached 80% of the aggregate annual budget in the "Exceptions" section of the Program Narrative portion of each affected program's monthly report.