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<b>BUDGET BULLETIN</b>	<b>B-1163</b>	<b>October 23, 2001</b>
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**TO: ALL DEPARTMENT AND AGENCY HEADS**

**FROM: Carole E. Stone** *CS*

**SUBJECT: Statewide Hiring Freeze  
Guidelines Pursuant to Executive Order No. 1**

This bulletin provides guidance regarding the enforcement of the Statewide hiring freeze described in Budget Bulletin #B-1162, released October 17, 2001. This bulletin supersedes Budget Bulletins #B-1148 and #B-1158.

Pursuant to Executive Order #1, the filling of any position through promotion, transfer or new hire is prohibited unless specifically authorized by the Division of the Budget (DOB). Reallocation or reclassification actions that would result in position upgrades are also prohibited unless authorized by DOB. This freeze applies to all permanent and temporary positions, excluding positions authorized under sections 55-b and 55-c of the Civil Service Law, regardless of funding source.

### **Revocation of Existing Waivers and Exemptions**

All existing hiring freeze waivers and exemptions have been revoked. Formal commitments to fill positions, which occurred prior to October 17, 2001, may be honored. Agencies must provide a written verification to the Department of Civil Service - Director of Staffing Services that such appointments are the result of a formal hiring commitment made on or before October 17<sup>th</sup>.

### **Requests for Reallocations, Reclassifications, Waivers, or Exemptions**

Reallocations, reclassifications, waivers, or exemptions will only be approved where there has been a demonstration that the classification actions or the filling of positions is essential and directly related to protecting health and safety, or ensuring the generation of State revenue. In requesting such actions, agencies must also demonstrate that the personnel need cannot otherwise be accommodated through the reassignment or redeployment of existing staff. Whenever possible, agencies should fill positions in essential areas by reassigning existing, qualified employees from less critical assignments.

This Bulletin includes two attachments: Attachment A defines comprehensive hiring freeze waiver and exemption terminology; Attachment B describes the acceptable criteria for approval of otherwise prohibited hiring

freeze actions and the circumstances when approval of a hiring freeze waiver or exemption is required to fill a position.

## **NYSTEP**

Requests for waivers or exemptions from the hiring freeze must be submitted to DOB via the Department of Civil Service's New York State Electronic Personnel system (NYSTEP). DOB examiners may also require agencies to provide written justification for requested actions, as appropriate.

State agencies, which are not users of the NYSTEP system, should contact their DOB examination unit for guidance on alternative procedures for administering the hiring freeze.

State agencies should verify that internal control and communication procedures are in place to ensure that hiring freeze waiver and exemption requests are fully authorized by agency management, reviewed by the appropriate personnel and fiscal units, and checked for accuracy before they are submitted to DOB via NYSTEP. DOB staff cannot make corrections to hiring freeze actions which have been submitted by State agencies via NYSTEP; requested waivers and exemptions which contain errors will have to be withdrawn (returned) by DOB and agencies will have to resubmit new, corrected requests to replace such withdrawn actions.

### **Application to Public Authorities**

Public authorities subject to Executive Order 173, dated July 28, 1993, should apply the standards contained in this bulletin to their hiring. Adequate justification for Authority actions should be maintained to permit DOB review for compliance with this policy.

**NOTE: This is the only distribution of this Bulletin. Please supply copies to all interested officials and employees in your agency or authority at all appropriate locations.**

## **HIRING FREEZE WAIVER AND EXEMPTION TERMINOLOGY**

### **Hiring Freeze Waiver (approved by Budget Division Unit Head)**

A hiring freeze waiver is used to *temporarily suspend* the hiring freeze for an item or group of items to allow for individuals to be appointed. Once approved by DOB, hiring freeze waivers remain in force for no more than 120 days, after which, the hiring freeze is reinstated for such item(s). The Division uses two types of hiring freeze waivers:

#### **Restricted Waivers**

- *Authorize the filling of statutory salary items via NYS internal hiring or transfer.*
- *Authorize the filling of BDA (Budget Director Approval) and other non-statutory (NS) salary items via NYS internal hiring or transfer.*

#### **Unrestricted Waivers**

- *Authorize the external filling of statutory salary items using appropriate Civil Service mechanisms if NYS internal hire or transfer is unavailable/unlikely.*
- *Authorize the external filling of BDA and other non-statutory (NS) salary items using appropriate Civil Service mechanisms if NYS internal hiring or transfer is unavailable/unlikely.*

Statutory salary items include, for example, positions where the salary is established by a statute such as section 130 of the Civil Service Law.

BDA and other non-statutory salary items are positions that do not have a statutory salary amount (e.g., a salary that is not set by section 130 of the Civil Service Law). The Budget Division is required to establish the salary for these positions through approval of a BDA or a position classification action.

### **Hiring Freeze Exemption (approved by Budget Division Unit Head and Deputy)**

A hiring freeze exemption is used to *indefinitely suspend* the hiring freeze for an agency, positions within a range of item numbers or a title to allow for individuals to be appointed. Exemptions also may be requested for items whose costs are supported by a particular fund, sub-fund or account, program or position pool. (This type of action is sometimes referred to as a “Blanket Hiring Freeze Waiver.”) Hiring freeze exemptions:

- *Allow for both internal and external filling to occur without any further DOB action or involvement.*
- *Are effective until such time as a subsequent action reinstating the freeze on such item(s) is effectuated.*

## **HIRING FREEZE PROCESSING REFERENCE**

### **CRITERIA FOR APPROVING REALLOCATIONS, RECLASSIFICATIONS, AND HIRING FREEZE WAIVERS OR EXEMPTIONS**

Reallocations, reclassifications, and hiring freeze waivers or exemptions may be approved when the:

- C Classification action or the filling of a position is essential and directly related to protecting the public health and safety; or
- C Classification action or the filling of a position is essential and directly related to ensuring the generation of State revenue.

### **BUDGET APPROVAL OF WAIVERS OR EXEMPTIONS IS REQUIRED:**

1. To fill any positions, either permanent or temporary, whether by promotion, transfer between appointing authorities, transfer to upward level positions, transfer from a non-general fund to the general fund, reinstatement, or new hire (this includes appointments made for hold purposes only);
2. To engage the services of individuals on a contract or voucher basis;
3. To change the funding source of filled items; and
4. To immediately replace a non-permanent employee with a qualified individual from an eligible list or a reemployment list.

### **BUDGET APPROVAL OF WAIVERS OR EXEMPTIONS IS NOT REQUIRED:**

1. To fill any positions via transfer to lateral or downward level positions within the same appointing authority, unless such appointments are from non-general fund to general fund items;
2. To change the status of incumbents from non-permanent to permanent, such as list appointments of provisional or temporary incumbents;
3. To move incumbents in their items where those items have been reallocated or reclassified, whether upward, downward or on a lateral basis (i.e., such employees have appointment rights). Note: Upward position reallocation and reclassification actions are subject to the freeze and must satisfy the above criteria;
4. To replace employees who have been terminated during their probationary periods;
5. To refill vacated items within the life of a current budget approved hiring freeze waiver for such items (life not to exceed 120 days);

6. To fill positions via displacements from reductions in force, such as bumping and retreating;
7. To fill positions as a result of returns from leaves of absence;
8. To change line items within the same appointing authority and funding source;
9. To facilitate mandatory advancements within, or completion of, approved traineeships, apprenticeships and career ladders; and
10. To make appointments to positions authorized under Sections 55-b and 55-c of the Civil Service Law.