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TO: ALL DEPARTMENT AND AGENCY HEADS

FROM: Carole E. Stone

SUBJECT: 2002-03 Retirement Incentive Program

Chapter 69 of the Laws of 2002 (S.7431/A.11420) authorizes a two track retirement incentive program that is intended to achieve permanent financial savings while avoiding employee layoffs. The program, which includes a traditional targeted retirement incentive and a new "55/25 No Penalty" incentive, is intended to be used broadly and aggressively to achieve the significant workforce reductions contemplated by the 2002-03 Enacted Budget. The Governor's Task Force on State Work Force Management and Employee Deployment ("Task Force"), chaired by the Director of State Operations, will oversee implementation of both incentives.

This bulletin, consistent with the May 20, 2002 memorandum from the Director of State Operations, provides guidelines to implement the incentive program. As a basis for implementation planning, you should contact your budget examiner to obtain your 2002-03 cash ceilings resulting from the enacted budget.

This Bulletin provides guidance and information as follows:

- I. TARGETED RETIREMENT INCENTIVE**
 - A. Policy Guidelines
 - B. Implementation Process

- II. "55/25 NO PENALTY" RETIREMENT INCENTIVE**
 - A. Policy Guidelines
 - B. Implementation Process

- III. TIMING OF INCENTIVE OFFERINGS**

I. TARGETED RETIREMENT INCENTIVE

A. Policy Guidelines

The targeted retirement incentive is intended to avoid employee layoffs in cases where required agency workforce reductions cannot be achieved through normal attrition and/or to facilitate organizational or operational changes required to operate with permanently reduced staffing levels. In achieving these policy objectives, agencies should avoid significant adverse impact on vital government services and adhere to the following guidelines regarding the determination of agency participation and the targeting of positions for eligibility.

Agency Participation

1. Agency participation in the targeted retirement incentive is subject to Task Force approval.
2. The Task Force will authorize the incentive for agencies implementing permanent workforce reductions consistent with the 2002-03 Enacted Budget, where such reductions cannot be achieved through the existing hiring freeze and employee transfers.
3. If approved by the Task Force, an agency will offer the incentive program during a 30 to 90 day "open period."

Targeting Positions for Eligibility

1. Authorized agencies must recommend to the Task Force the specific titles, and the number of positions within each title, that may be offered the incentive.
2. An incentive may only be offered to positions that are not critical to agency operations. Specifically, a position should not be targeted for the program if the loss of such position would unacceptably:
 - a. Result in a reduction of the level of service required or mandated to protect and care for clients of the State or to assure public health and safety;
 - b. Endanger the health or safety of State employees; or
 - c. Clearly result in a loss of significant revenue to the State or result in substantially increased overtime or contractual service costs; or
 - d. Compromise the core programmatic integrity of essential agency services or management capacity.

3. The targeting of positions is restricted to situations where the incentive offering can produce permanent recurring savings. Specifically, an agency may target a position for eligibility only if:
 - a. The agency has determined that the position is not critical and its participation is necessary to achieve budgetary savings that cannot be accomplished through normal attrition; or
 - b. To avoid a layoff, an employee in a position targeted for layoff can be transferred to a position from which another employee will retire under the incentive program.
4. Agency heads, elected officials and employees who participate in the New York State and Local Police and Fire Retirement System are not eligible for the retirement incentive program.
5. To be eligible, an employee must have been in active service, as defined in Chapter 69, from February 1, 2002 until the commencement of the open period.
6. Selection of eligible employees must be made on the basis of seniority if the number of interested employees in an eligible title and work location exceeds the number of positions that the agency has determined can participate.

B. Implementation Process

The Task Force will review agencies' requests to determine the level of agency participation in the targeted incentive program. To participate, agencies must:

- Review 2002-03 Enacted Budget agency financial plan and workforce assumptions with Division of the Budget staff to determine the need for an incentive;
- Submit a formal request for an open period with a supporting program plan to the Task Force;
- Survey employees in targeted titles upon Task Force approval of the request for an open period; and
- Submit a final program plan for Task Force approval.

Additional guidelines on each stage of the implementation process are provided below.

Stage 1: Initial Planning/Review of Fiscal Situation

In consultation with the Budget Division, agencies should review their 2002-03 Enacted Budget agency financial plan and workforce assumptions to determine the magnitude of planned, permanent workforce reductions. As part of this review, agencies must assess the number of positions, by title, that must be eliminated

pursuant to the enacted budget, and the extent to which such reductions can be accomplished through attrition and employee transfers. Agencies should contact their budget examiner to obtain their cash ceilings and anticipated workforce levels, resulting from the enacted budget.

Stage 2: Submit Open Period Request and Program Plan

If, through initial planning, it is determined that an agency needs to offer a retirement incentive program to avoid layoffs or achieve recurring savings, then the agency should submit a written request for an open period and a supporting retirement incentive program plan to the Task Force.

The request for an open period should describe the need to offer an incentive program and recommend a 30-90 day period for the incentive program offering. **Attachment A** provides the required contents of the retirement incentive program plan.

The request for an open period and supporting program plan must be sent to the Task Force at least two weeks prior to the first day of the proposed open period.

Stage 3: Survey Employee Interest

Subsequent to Task Force approval of an open period, agencies must survey all employees in targeted titles to solicit their interest. **Attachment B** provides a sample Employee Survey and Notification of Interest Form. The survey must advise employees of their responsibilities for participation in the program pursuant to the statute. Specifically:

- Employees who are interested in participating must submit a completed Employee Survey and Notification of Interest Form to the agency personnel office at least 21 days prior to the close of the program open period.
- Employees must apply for retirement no later than 14 days prior to the end of the program open period, with an effective date of retirement no later than the last day of the open period.

Stage 4: Submit Final Program Plan and a List of Eligible Participants

After completing the employee survey process, an agency must prepare a final retirement incentive plan for approval by the Task Force. The final plan must reflect any changes required by the Task Force and be accompanied by a complete listing of eligible participants using the retirement system form provided in **Attachment C**.

The final program plan should be submitted to the Task Force at least 7 business days prior to the close of the open period. Upon final action by the Task Force, agencies should notify interested employees of the final determination. The Task Force will transmit the approved listing of eligible participants to the retirement system.

II. "55/25 NO PENALTY" RETIREMENT INCENTIVE

A. Policy Guidelines

Each employee who meets the age, creditable service and tier criteria to qualify for the "55/25 No Penalty" incentive will have a 90-day period to retire with the no penalty benefit unless the employee is identified as holding a position that is "critical to the maintenance of public health and safety." Accordingly, all agencies must evaluate the positions of employees who qualify for the benefit and recommend to the Task Force a list of employees, if any, who should be excluded for health and safety reasons. The Director of State Operations will select a commencement date for the 90-day period once the Task Force has completed its review of agency recommendations for employees to be excluded from eligibility.

Determination of Exclusions

An agency should exclude an employee from eligibility if the loss of their position would:

- Reduce the level of service required to protect and care for individuals in the care or custody of the State; or
- Place at risk the health or safety of State employees or the public.

In some situations, an occupational title which generally is considered critical could be determined to be non-critical due to a unique facility-specific or geographic circumstance.

B. Implementation Process

The Task Force will send agencies an official worksheet that lists employees who could qualify for the "55/25 No Penalty" incentive if not excluded for health and safety reasons. These lists are based on eligibility information provided by the New York State and Local Employees' Retirement System (ERS). The Division of the Budget will distribute the worksheets to the fiscal officer of each agency identified by ERS as employing individuals eligible for the program.

Instructions for Completing the Worksheets and Supporting Documentation

1. Agencies should make a health and safety determination for each employee listed on the Task Force official worksheet following the criteria in the preceding part A of this Bulletin.
2. Once this determination is made, agencies must input their recommendations to "Exclude from Program" or "Include as Eligible" with an X in the appropriate column on the worksheet.

3. A separate written justification should be prepared to document the reasons for identifying employees as ineligible ("Exclude from Program") for health and safety reasons. Given the substantial size and nature of some employee listings, it is anticipated that such justifications will be in the form of both employee-specific and/or larger groupings by job title, depending upon the specific position.
4. The data provided by the Task Force cannot be modified. However, agencies may recommend changes as follows:
 - a. If an agency determines information provided by the Task Force is incorrect it should list the employee, along with the required data, in the worksheet tab entitled "**Changes**" under the heading "**CORRECTIONS**" and highlight the corrected information in bold. Agencies should not make corrections on creditable service information.
 - b. If any agency determines that an employee is missing from the Task Force list of eligible employees it should add all required information on the employee in the worksheet tab entitled "**Changes**" under the heading "**ADDITIONS**" and make a health and safety eligibility determination.

The list of eligible employees prepared by ERS includes employees that may not qualify for this particular incentive program because they:

- Work in positions that are excluded by law (e.g., agency heads);
- Participate in retirement plans that already provide full benefits at 25 years of service, regardless of age (e.g., most correction officers);
- Become age 62 during the open period and, thus, will be entitled to receive a full (no penalty) pension without electing the incentive; or
- Do not meet the requirements for creditable service to qualify for an incentive. ERS presented data on creditable service in an estimated range because computer records of pension service credit did not exist prior to the mid-1980s. As a result, some employees on the list may not be eligible for the program because their actual creditable service is less than the 25-year service requirement. Conversely, some employees on the list may already meet the 30-year service requirement to retire with full benefits.

Regardless of the above, for the purpose of this review, agencies should assume all employees on the worksheet are eligible for the program and make a health and safety determination for each individual accordingly.

Both a hard copy of the completed worksheet and the written justification for exclusions should be submitted to the Task Force on or before June 21, 2002. In addition, an electronic copy of the completed worksheet should be sent to your budget examiner.

The Task Force will provide additional guidance on the “55/25 No Penalty” incentive commencement date and employee notification requirements subsequent to its review of agency recommendations.

III. TIMING OF INCENTIVE OFFERINGS

At this time, it is anticipated that both incentives will be offered concurrently and as soon as possible to maximize financial savings. Therefore, agencies should assume that an incentive offering could occur as soon as early July. Accordingly, agencies should proceed with their review of the positions occupied by employees who qualify for the “55/25 No Penalty” incentive as quickly as possible and begin all other workforce planning immediately.

QUESTIONS/CORRESPONDENCE

Questions on the incentive program and the guidelines contained in this bulletin should be directed to your budget examiner.

All written correspondence between agencies and the Task Force required by this Bulletin should be addressed concurrently to:

Task Force on State Work Force Management and Employee Deployment
c/o Mr. John V. Currier, Acting Director
Governor's Office of Employee Relations
Agency Building 2, Suite 1201
Albany, NY 12223-1250

and

c/o Mr. John E. Burke, Chief Budget Examiner
Division of the Budget
State Capitol, Room 117
Albany, NY 12224

cc: [Chief Budget Examiner of Agency's DOB Examination Unit]
Division of the Budget
State Capitol, Room ____
Albany, NY 12224

**2002-03 Retirement Incentive Program
Employee Survey and Notification of Interest Form**

Name: _____ Item No.: _____

Title: _____ Salary Grade: _____

Agency/Facility: _____ Agency/Facility Code: _____

1. I hereby provide written notice of my desire to avail myself of the retirement incentive provided by Part A of Chapter 69 of the Laws of 2002.
2. I understand that my eligibility for the retirement incentive will be determined in accordance with the provisions of Chapter 69, that I will be eligible for the program only if my position, as described above, is in an eligible title, and that if my position is in an eligible title and more employees apply for the retirement program than the number of positions that can be eliminated, the retirement program will be made available to employees in order of their seniority.
3. I understand that in addition to providing this written notice to my agency personnel office by _____, 2002, if I am eligible for the retirement incentive program and I want to receive the incentive, I must submit an application for a service retirement by _____, 2002, with my retirement to be effective no later than _____, 2002. **[Dates to be filled in by the agency.]**
4. I understand that if I submit an application for service retirement, I may withdraw such application at any time prior to the effective date of retirement.
5. I understand that this notification is not binding, and that even if I have submitted this notification, I am neither required to retire nor guaranteed participation in the retirement incentive program.

Employee Signature

Date

For Agency Use Only

Signature of Agency Personnel Representative

Date Received

Employee Copy

Agency Copy

