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TO: ALL DEPARTMENT AND AGENCY HEADS

FROM: Laura L. Anglin

SUBJECT: Statewide Hiring Freeze Guidelines

In response to deteriorating revenues and a potential current-year shortfall of \$630 million, Governor Paterson has taken immediate action to help ensure budget balance. In addition to the savings measures enacted this week, on July 30 he ordered a seven percent reduction in State agency spending and a hard freeze on all State hiring.

This bulletin provides guidance for the strict enforcement of the Statewide Hiring Freeze. It is applicable to Executive Branch State departments and agencies (hereafter collectively referenced as "agencies") and supersedes Budget Bulletins B-1160, B-1162, B-1163 and B-1165. Information regarding the procedures for implementing the seven percent agency spending reduction will be detailed in a subsequent directive. It is expected, however, that the implementation of the hiring freeze will assist agencies in reaching this savings target.

Hiring Freeze Overview

The Hiring Freeze is a comprehensive prohibition on all promotions, transfers, new hires, and position upgrades done through reclassification actions unless individually justified, and authorized by the Division of the Budget. It includes all permanent and temporary positions, regardless of funding source, except for those positions authorized pursuant to Sections 55-b and 55-c of the Civil Service Law, which cover individuals and veterans with disabilities.

All Existing Waivers and Exemptions Immediately Revoked, and Reallocations and Reclassifications Suspended

All existing hiring freeze waivers and exemptions are hereby revoked. Formal commitments to fill positions, which occurred prior to July 31, 2008, may be honored. Agencies must provide a written verification to the Department of Civil Service - Director of the Staffing Services Division that such appointments are the result of a formal hiring commitment made before July 31, 2008.

Reallocations and reclassifications are hereby suspended unless such classification actions meet the criteria stated below. However, this Bulletin does not prohibit agencies from considering title consolidations that are cost neutral. In fact, agencies are encouraged to identify title consolidation opportunities that would improve productivity, better utilize staff, and enhance career development and mobility opportunities. The Department of Civil Service's Division of Classification and Compensation will work directly with agencies to facilitate appropriate title consolidations.

Process for Filling Positions During Hiring Freeze: Waivers, Reallocations or Reclassifications

Requests for waivers to fill positions during the hiring freeze must be submitted to the Division of the Budget.

- **Justifications for hiring and reclassification/reallocation actions:** Requests will be approved only where there has been a demonstration that the authorization to fill and/or the classification action is for a position(s) directly related to: ensuring health and safety; generating revenue; or providing essential administrative or operational support for the core mission of the agency.
- **Requirements for agencies:** When requesting such actions, agencies are required to demonstrate that such personnel need cannot be otherwise accommodated through the reassignment or redeployment of existing staff. Whenever possible, agencies are required to fill positions in essential areas by reassigning existing, qualified employees from less critical assignments.

Requests for Exemptions

Exemptions, sometimes called blanket hiring freeze waivers, will only be considered in the most extraordinary situations and are expected to be granted on an extremely limited basis. Agencies must provide compelling justification for the need for such exemptions and must describe the consequences should the exemption not be approved.

New York State Electronic Personnel System (NYSTEP)

Requests for waivers or exemptions from the hiring freeze must be submitted to DOB via the New York State Electronic Personnel system (NYSTEP). Agencies are required to provide a written justification in the comments screen for requested actions. State agencies that are not users of NYSTEP are required to contact their budget examination unit for guidance on alternative procedures for administering the hiring freeze.

This bulletin includes two attachments: [Attachment A](#) defines hiring freeze waiver and exemption terminology; [Attachment B](#) describes the acceptable criteria for approval of hiring freeze actions and the circumstances when approval of a hiring freeze waiver or exemption is required to fill a position.

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 in NYSTEP; requested waivers and exemptions that contain errors will be withdrawn by DOB and agencies will need to resubmit new, corrected transactions to replace such withdrawn actions.

Application to Public Authorities

Public authorities subject to Executive Order No. 173, dated July 28, 1993, are required to 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.

Attachments

HIRING FREEZE WAIVER AND EXEMPTION TERMINOLOGY

Hiring Freeze Waiver

A hiring freeze waiver is used to *temporarily suspend* the hiring freeze for a specific 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). There are 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

A hiring freeze exemption is used to *indefinitely suspend* the hiring freeze for an entire agency, positions within a range of item numbers or a specific title without the need for DOB to approve such actions on a position-by-position basis. 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.”) As noted in this Budget Bulletin (B-1182), exemptions will only be considered in the most extraordinary circumstances.

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.*

As previously noted, exemptions will only be considered in the most extraordinary situations and are expected to be granted on an extremely limited basis.

HIRING FREEZE PROCESSING REFERENCE

CRITERIA FOR APPROVING HIRING FREEZE WAIVERS, EXEMPTIONS REALLOCATIONS, OR RECLASSIFICATIONS

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

- Classification action or the filling of a position is essential and directly related to protecting the public health and safety;
- Classification action or the filling of a position is essential and directly related to ensuring the generation of State revenue; or,
- Classification action or the filling of a position that provides essential administrative or operational support for the core mission of the agency.

BUDGET APPROVAL OF WAIVERS OR EXEMPTIONS IS REQUIRED:

1. To fill any positions (excluding those designated for Civil Service Law, Section 55-b/c candidates), 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, upward reallocation or reclassification actions, reinstatements, or new hires (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 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 involve movement 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 downward or on a lateral basis (i.e., such employees have

appointment rights). As noted previously, 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 (full 120 life reinstated);
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, or appointment level changes (PR-50);
10. To move an incumbent, or an incumbent's hold item, from an encumbered to an unencumbered position, but only when required by the New York State Codes, Rules, and Regulations (NYCRR 4.11(c)); and,
11. To provide a permanent hold item to an employee who has received a contingent permanent appointment under the jurisdiction of a different appointing authority, but only when required by 4NYCRR 4.11 (e)(2).