



Division of the Budget

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TO: ALL DEPARTMENT AND AGENCY HEADS

FROM: Robert F. Mujica Jr. 

SUBJECT: Statewide Hiring Freeze Guidelines

Due to the impact of the COVID-19 (Novel Corona Virus) outbreak on State revenues and expenditures, a strict hiring freeze is in effect for all Executive Branch departments and agencies (hereafter collectively referenced as "agencies") per Budget Bulletin B-1223.

Effective immediately, all existing waivers and exemptions to the hiring freeze are hereby revoked and agencies should cease all hiring with the exception of positions for pandemic response activities. All requests to fill pandemic response positions must be approved by the Division of the Budget (DOB).

Hiring Freeze Overview

The strict hiring freeze is a comprehensive prohibition on promotions, transfers, new hires, reclassifications and reallocations unless individually justified and authorized by the DOB. 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 the employment of individuals and veterans with disabilities.

Justification for Waivers and Exemptions

All new hiring requests are limited to positions that are essential to protect health and safety and subject to Director approval. Agencies must fill positions in these categories, to the extent possible, by reassigning existing, qualified employees from less critical assignments. Waivers requests must demonstrate that the new hire cannot be otherwise accommodated through the reassignment or redeployment of existing staff. Exemptions (i.e. blanket waivers) will only be considered in the most extraordinary situations -- agencies must provide compelling justification to support these requests and discuss the consequences of non-approval.

Process for Filling Positions During Strict Hiring Freeze

Requests for waivers or exemptions must continue to 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. Agencies may also be asked to provide additional documentation at the request of their budget examination unit. State agencies that are not users of NYSTEP are required to contact their budget examination unit for guidance on alternative procedures.

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 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

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.

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.") 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.*

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; or
- 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 (excluding those designated by 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 and non-Special Revenue to General Fund or Special Revenue 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).