

BUDGET LETTER

NUMBER: 04-23

SUBJECT: NEW DEFICIENCY FUNDING PROCESS

DATE ISSUED: August 13, 2004

REFERENCES: BUDGET LETTER 04-18, ITEMS 9840 IN THE 2004 BUDGET ACT

SUPERSEDES:

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Background

As discussed in Budget Letter (BL) 04-18, this BL outlines the new process for deficiency funding. One main goal of this legislative change in the deficiency process is to give the Legislature time to review and approve deficiency requests before the costs related to the deficiency are incurred. A significant change is that the Department of Finance (Finance) can no longer authorize a department to spend at a rate to incur a deficiency. Please be reminded that Agency Secretaries/Department Directors can be held personally liable for the amount of unlawful indebtedness/expenditures.

Section 13324 of the Government Code and Section 32.00 of the annual budget act have, for years, provided that any person who expends funds in excess of an appropriation may be held personally liable for the amount of excess expenditures. In the past, under the provisions of now repealed Section 11006 of the Government Code and Section 27.00 of the annual budget act, Finance was able to authorize departments to spend at a rate what would incur a deficiency. Under such authorization, expending funds in excess of an appropriation did not subject a person to personal liability.

Without the authority of Government Code Section 11006 and Section 27.00 of the annual budget act, it is now critical that agencies/departments notify Finance as soon as possible if a deficiency is identified for a program that is statutorily required (e.g., for enrollment, caseload, or population (ECP)). The potential liability for overspending appropriations is greater for these programs, and, due their larger dollar amounts, they will most likely be funded by a supplemental appropriation bill. Although funding may not occur before expenditure for the ECP deficiency, early approval from Finance and early notification to the Legislature, will provide the Legislature the opportunity to appropriately fund the deficiency.

Restrictions in Items 9840

Requests for deficiency funding for the 2004-05 fiscal year must be in accordance with Items 9840 of the 2004 Budget Act. Pursuant to Items 9840 of the Budget Act of 2004, funding is limited to unanticipated expenses incurred during the 2004-05 fiscal year for an existing program. Deficiency funding is not available for the following:

- capital outlay,
- expenses attributable to a prior fiscal year,

- expenses related to legislation enacted without an appropriation,
- startup costs of programs not yet authorized by the Legislature,
- costs that the Administration had knowledge of in time to include in the May Revision, or costs that the Administration has the discretion to incur or not incur.

Additionally, allocations from the 9840 items are limited. The amount of the adjustment to the line of the schedule is limited based upon the size of the appropriation. The limit is applied as follows: 20 percent of the amount scheduled on the line for appropriations that are \$2 million or less, \$400,000 of the amount scheduled on the line for appropriations that are more than \$2 million but equal to or less than \$4 million, or 10 percent of the amount scheduled on the line for appropriations that are more than \$4 million.

New Process

Departments that have a critical unanticipated funding need that meets the criteria established in Item 9840 of the Budget Act of 2004 must first take all legally permissible steps to reduce expenditures and avoid the deficiency. Should a department determine that the need for additional funding cannot be avoided, they must notify their Finance budget analyst immediately in writing by completing and submitting a "Request for Deficiency Funding" form DF 580 (copy attached) and provide adequate backup documentation. The information to be provided on the DF 580 includes, the fund, item number, and amount of funding needed. Departments must also provide a detail explanation of what caused the need for additional funding as well as a detailed explanation of what specific steps they have taken to resolve the funding shortage prior to requesting deficiency funding.

Upon receipt, Finance will review the request, and prepare and send a letter, within 15 days, to the Chairperson of the Joint Legislative Budget Committee and the Chairpersons of the Senate and Assembly fiscal committees notifying them of the department's request for deficiency funding.

Finance will evaluate the funding request based upon its determination of the necessity and the criteria contained in Items 9840 of the 2004 Budget Act. If the request is approved, Finance will then determine if the funding is to be provided through the 9840 item or a supplemental appropriations bill. The decision to determine which method will be used to fund the deficiency request will be based upon criteria such as the size of the request, the date the funding is necessary, and the fund from which the expenditure will occur.

Deficiencies to be funded from 9840 Items

After review and approval of the deficiency funding request, Finance will prepare a letter to the Chairperson of the Joint Legislative Budget Committee and the Chairpersons of the Senate and Assembly notifying them of the intention to fund a deficiency from a 9840 item.

If there are no objections by the Legislature, Finance has verified the preliminary estimates of the potential unanticipated expenses, and 30 days from the date of the letter has elapsed, Finance will prepare an Executive Order instructing the State Controller's Office to make the necessary augmentation.

Deficiencies to be funded from a Supplemental Appropriations Bill

After review and approval of the deficiency funding request Finance, will send a letter to the Joint Legislative Budget Committee notifying them of the approval of a deficiency funding request, and the date

the funding will be needed. Finance will work with the Legislature to sponsor a supplemental appropriations bill.

For general questions regarding the deficiency process, please contact Lajunta Inman or Linda Sebastiani at (916) 322-5540. For specific deficiency request, contact your Finance budget analyst.

/s/ Michael C. Genest

MICHAEL C. GENEST
Chief Deputy Director