BUDGET LETTER

SUBJECT:	MAJOR CHANGES IN THE DEFICIENCY PROCESS COULD RESULT IN PERSONAL LIABILITY FOR SECRETARIES AND DIRECTORS	**NUMBER:**	04-18
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REFERENCES:		**SUPERSEDES:**	

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

FROM: DEPARTMENT OF FINANCE

Alert: The deficiency process for the 2004-05 Budget has been significantly revised. As a result, the possibility of agency secretaries and departments being held personally liable for overspending their appropriations has increased dramatically.

This Budget Letter (BL) provides an overview of the changes. Detailed information on changes to the process will be provided in a subsequent BL.

In previous years, Section 27.00 and Budget Act items 9840, Augmentation for Contingencies or Emergencies, provided the basis for funding deficiencies. Section 27.00 provided reporting requirements for deficiencies, defined the allowable deficiencies, and allowed the Department of Finance (Finance) to authorize a department to spend at a rate to incur a deficiency. The 9840 items provided amounts that could be used by Finance to provide augmentations to departments to fund small deficiency needs ($2 million General Fund, $1.5 million special funds, and $1.5 million nongovernmental funds).

In 2004-05, Section 27.00 has been deleted and the 9840 items have been increased to $50 million General Fund, $15 million special funds, and $15 million nongovernmental funds. The increases in the 9840 items will allow Finance to directly fund more of the small deficiency requests. The amounts appropriated in the 9840 item are substantially less than the amounts appropriated in the deficiency bills under the Section 27.00 process of the previous years.

In accordance with these changes, *Finance can no longer authorize a department to spend at a rate to incur a deficiency*. Deficiencies will now be funded only through separate supplemental appropriation bills to be sponsored by Finance only in cases in which there is no way to reduce spending to avoid the deficiency. Finance will provide access to funds in the 9840 item only in cases of extreme emergency and only after the Departments seeking access to these funds demonstrate that all legally permissible steps have been taken to reduce spending in the programs for which such funds are being sought.

Many of the provisions of the former Section 27.00 have been incorporated into the revised 9840 items. Augmentations from 9840 items are limited to unanticipated expenses for existing programs and may not be used to fund 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 not incur. General Fund augmentations from the 9840 items are now limited to certain percentages depending on the size of the appropriation that is to be augmented.

In addition, Section 32.00 has been revised to reflect the deletion of Section 27.00 and specifically the loss of the authority for Finance to approve a department to spend at a rate to incur a deficiency. Section 32.00 and Government Code Section 13324 continue to forbid any expenditure that is in excess of appropriations with the exception of appropriations made in the California Constitution and expenditures mandated by federal law. Any department that makes such an unauthorized expenditure will be required to fund the expenditure from within its existing appropriations or sponsor legislation to authorize the expenditure. **Agency Secretaries/Department Directors can be held personally liable for the amount of such unlawful indebtedness/expenditures.**

Should you have any questions regarding this BL, please contact Lajunta Inman or Linda Sebastiani at (916) 322-5540.

/s/ Michael C. Genest

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