

BUDGET LETTER

	NUMBER: 07-05
SUBJECT: USE OF EMERGENCY PROVISION IN ITEM 9840 MUST BE FULLY JUSTIFIED	DATE ISSUED: January 31, 2007
REFERENCES: BUDGET LETTERS 04-23, 05-30, 06-06	SUPERSEDES:

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

FROM: DEPARTMENT OF FINANCE

The Joint Legislative Budget Committee (JLBC) notified the Department of Finance in a January letter that the Administration had not justified the use of the emergency provision included in Item 9840 of the 2006 Budget Act (Provision 5 of Item 9840-001-0001). We submitted two letters in early January that utilized Provision 5. Although the JLBC did not have concerns about the validity of the costs, they strongly questioned our use of the emergency provision and incurring liabilities prior to legislative approval. Specifically, the JLBC stated:

“Use of Emergency Provision Not Justified

In both cases, I do not have any concerns regarding the validity of the costs. I do, however, have serious concerns regarding the use of Item 9840’s emergency provision in these cases. The use of the emergency powers in nonurgent situations (or urgency caused by departments’ slow action) undercuts the intent of Item 9840 and limits the Legislature’s review of expenditures.”

Given the JLBC’s criticism over our use of the 9840 emergency provision, we will be much more circumspect in its use. We will use Provision 5 only when the requesting department can clearly support a determination that the requested expenditure is an “expense incurred in response to conditions of disaster or extreme peril that threaten the immediate health or safety of persons or property in the state”.

Agency Secretaries and Department Directors are reminded that under Section 32.00 of the Budget Act and Government Code Section 13324, departments are forbidden to spend at a rate to incur a deficiency and that they can be held personally liable for the amount of such unlawful indebtedness/expenditures. Departments are expected to understand the needs of their programs and recognize the financial impact of any changes to these programs. To avoid deficiency funding timing problems and to provide the Legislature with sufficient time to review the requests, departments are expected to provide prompt notification of any potential deficiencies to their respective Finance budget analyst.

Should you have questions regarding this Budget Letter, please contact your Finance budget analyst.

/s/ Vincent P. Brown

VINCENT P. BROWN
Chief Deputy Director