BUDGET LETTER

NUMBER: 14-17	
SUBJECT: VACANT POSITION REESTABLISHMENTS	**DATE ISSUED:** August 6, 2014
REFERENCES: GOVERNMENT CODE SECTION 12439, CONTROL SECTION 4.11, BUDGET ACT OF 2014, AND PERSONNEL MANAGEMENT LIAISONS 2014-011	**SUPERSEDES:** BL 13-12

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

FROM: DEPARTMENT OF FINANCE

Budget Officers are requested to forward a copy of the Budget Letter (BL) to Human Resources and Labor Relations Offices.

Deadlines and Deliverables	
August 15, 2014	Requests to reestablish positions by self-certification must be submitted to the State Controller's Office (SCO).
August 29, 2014	Request for Vacant Position Reestablishment forms (DF-155) are due to the Department of Finance (Finance).
September 5, 2014	Finance advises agencies, departments, and other state entities of the approval or denial of the DF-155.
September 12, 2014	Approved DF-155 documents are due to the SCO.

This BL addresses the reestablishment of positions abolished pursuant to Government Code (GC) section 12439.

Reestablish Vacant Positions

GC section 12439 states that positions vacant for six or more consecutive pay periods shall be abolished on July 1 of the following fiscal year. The statute provides for the following two categories for reestablishment of positions:

1. Positions may be reestablished by self-certification if specific criteria under GC section 12439(c) are met. Requests to reestablish positions by self-certification must be submitted to the SCO by August 15, 2014. Refer to GC section 12439(c) for the criteria for self-certification.

2. Positions may be reestablished upon the approval of the Director of Finance pursuant to GC section 12439(b), which states the Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:

   (1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.

   (2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.

(3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer of the department as part of the transition from one Governor to the succeeding Governor.

(4) The classification of the position is determined to be hard-to-fill.

(5) Late enactment of the budget caused the department to delay filling the position.

Although departments and other state entities should immediately begin to identify which of the abolished positions meet at least one of these GC section 12439(b) criteria for consideration of reestablishment, departments should not assume that a position will be reestablished simply because it meets one of the above criteria. Every request will be considered in light of the various factors that affect the associated department's budget.

The Department of Human Resources (CalHR) issued Personnel Management Liaisons (PML) 2014-011 on May 16, 2014, reminding state agencies, department officials, and personnel officers that they must maintain strict compliance with GC section 12439. The PML also included notification that Finance's Office of State Audits and Evaluations will begin a targeted audit of departments to determine the current level of compliance and to assess the effectiveness of the law. In order to assist departments, the PML provided instructions and resources that should be used to ensure continued compliance with GC section 12439.

Following the release of PML 2014-011, the California Government Operations Agency issued a letter to the Legislature confirming that the Brown administration is committed to working with the Legislature and state departments to ensure compliance.

Departments are reminded that GC section 12439(h) forbids personnel transactions "for the purpose of circumventing the provisions of [section 12439]" and are encouraged to review the CalHR PML and the outlined resources with staff to ensure compliance with this law. Departments that utilize the SCO's online reporting system may view and/or create reports in order to determine if any positions may be subject to GC 12439. Departments that do not use the SCO's online reporting system are still required and expected to maintain methods to track position vacancies in order to comply with this section. The SCO has generated and distributed a preliminary list of continuously vacant positions as of June 30, 2014.

Departments and other state entities requesting a vacant position reestablishment pursuant to GC section 12439(b) must submit an original, signed DF-155 (attached) and all supporting documentation, including a Change in Established Positions form (Std. 607), to their Finance budget analyst by August 29, 2014. (607s must include an "X" before the document number in box 3b.) An electronic version of the DF-155 Form is available on the Finance website http://www.dof.ca.gov/budgeting/forms/documents/DF-155.doc.

All requests must be complete and provide sufficient justification for reestablishment. Please note that positions abolished under GC section 12439 are not included in the Schedule 8 (SCO's Report of Authorized Positions). Instructions to reflect reestablished positions within the Salary and Wages (Schedule 7A) will be forthcoming.

Control Section 4.11 provides that each new position authorized in 2014-15 must be established effective July 1, 2014, unless otherwise approved by Finance. This section was added to the budget to prevent circumvention of GC section 12439 through the delay of formal establishment of new positions.

Form DF-155 Instructions

Departments may submit one DF-155 (attached) for multiple position reestablishments if the positions all qualify for reestablishment pursuant to the same criteria and have the same justification for reestablishment.

Request Date and Request Number: Include date of submittal and request number (e.g., 0001, 0002).

Attachments: For each DF-155, indicate whether attachments are included and enter the total number of pages, including the DF-155.

Section A: Indicate which criteria qualify the position for reestablishment. Mark all that apply.

Section B: Provide a justification for a June 30, 2014 vacant position reestablishment.

Section C: Describe the specific consequences that will occur if the reestablishment request is denied.

Section D: Indicate the position number, classification title, and salary range for each position in which a vacant position reestablishment is requested. For requests addressing more than one position, departments must attach supporting schedules illustrating the required information for each position.

Contact Person: Provide the name and telephone number of the responsible person(s).

Section E: Departments reporting to Agency Secretaries must include the signature of both the Department Director or Cabinet-level Director and the Agency Secretary certifying the need for position reestablishment. Departments and other state entities not represented by an Agency Secretary or Cabinet-level Director must include the signature of the Department Director or other authorized designee.

Approval: Finance will review the request and notify agencies, departments, and other state entities, as appropriate, of the approval or denial of the DF-155, by September 5, 2014. Approved documents are due to the SCO by September 12, 2014.

If you have any questions regarding this BL, please contact your Finance budget analyst.

/s/ Richard Gillihan

Richard Gillihan
Program Budget Manager

Attachment