



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

October 9, 2013

EXECUTIVE MEMORANDUM

MEMO NO. 13-04

TO: All Department Heads

SUBJECT: Amendments to Executive Memorandum No. 13-02, FY 14 Budget Execution Policies and Instructions

The FY 14 Budget Execution Policies and Instructions issued in June 2013 urged continued prudence with expenditures in light of the State's vulnerability to numerous uncertainties, including those on the national level. As you know, our State is currently feeling the significant impact of the federal government shutdown which began on October 1, 2013, as a result of Congress being unable to pass a federal budget for federal FY 14. Additionally, Congress must also take action to increase the federal debt limit by October 17, 2013, to allow the federal government to continue to pay its financial obligations on time.

There are many difficult - and perhaps more obvious - decisions to be made about the continuation of federal programs, especially if the shutdown is prolonged. The impact, however, could reach beyond our federal programs.

We must be prepared for the adverse impact to the State and national economy, which will be exacerbated if the debt limit issue is not resolved in time. All of the State's revenues, including general and special fund revenues, could be affected.

As a precautionary measure, I have authorized a temporary general freeze on position vacancies, applicable to all means of financing, to control labor costs. All departments should critically review their ongoing recruitments to ensure that actions taken are appropriate as provided by this memorandum.

We will continue to monitor the situation at our nation's capital to ensure that our actions remain appropriate.

Effective immediately, the following amendments to Item No. 14, Workforce Control, of Executive Memorandum (E.M.) No. 13-02, FY 14 Budget Execution Policies and Instructions, shall apply:

14. Workforce Control (amended).

Effective immediately, all current and future position vacancies are frozen until further notice (new).

- Actions to fill vacancies that are already in the recruitment process where a conditional offer of employment has been made as of the date of this E.M. No. 13-04 shall be allowed to continue through their final stages.
- Actions to fill vacancies that are already in the recruitment process as approved by the department head or the Governor, as applicable, as of the date of this E.M. No. 13-04 shall be allowed to continue through their final stages, provided that all conditional offers of employment shall have a start date of January 2, 2014 or later.
- Exception to this general freeze may be granted for exceptional cases where there is an urgent and critical need involving public health and/or safety. Governor's approval through B&F is required as noted in **Item b.1** below. Department heads are delegated authority to approve the establishment, filling and/or extension of specific positions as noted in **Item b.2** below.
- a. Position Allocation Ceilings. The number of permanent full-time equivalent (FTE) positions, which may be established and filled by each department, shall not exceed the total number **allocated in Exhibit 1** to each respective department, by MOF, and the numbers provided for project-funded positions in **Item 25.e.** (CIP Staff Services Cost).
- b. Establishment and Filling of Positions/Vacancies (amended).

All departments should thoroughly assess and evaluate the need to establish and/or fill a position. All department heads are advised to seriously examine and weigh each request to establish and/or fill positions against their departmental budget, the overall fiscal condition of the State, and the value the position will give to the public, along with the need to sustain government services in the long term. Department heads are expected to be accountable for all decisions to establish and/or fill positions.

b.1 Governor's approval, through B&F, is required for the following, unless specifically allowed under Item b.2 (amended).

- Establishment and/or filling of authorized (permanent or temporary) and funded civil service positions as indicated in the department's FY 14 operating budget (BJ) details or CIP Staff Services Cost appropriation of Act 134, SLH 2013.
- Establishment, filling and/or extension of exempt positions.

- Establishment, filling and/or extension of positions authorized by general law or specific legislation which are not included in the budget.
- Establishment, filling and/or extension of unauthorized positions but are allowed pursuant to Section 113 of Act 134, SLH 2013.
- Initial filling of any position on an 89-day appointment basis. Departments are reminded that subsequent action to extend an 89-day appointment requires approval from the Department of Human Resources Development (DHRD) (new).

b.2 Department heads are delegated the authority to approve the following (amended):

- Establishment and/or filling of authorized positions in DOE, Charter Schools, Hawaii State Public Library System (HSPLS), Hawaii Health Systems Corporation (HHSC) and the University of Hawaii (UH).
- Establishment, filling and/or extension of positions that are 100% funded by non-appropriated trust funds (amended).
- Establishment and/or filling of authorized exempt Hawaii State Hospital staff positions currently necessary to ensure Department of Justice compliance.
- Establishment and/or filling of authorized exempt Hawaii Youth Correctional Facility staff positions.
- Establishment and/or filling of authorized exempt Department of Health positions previously mandated by the Felix or Makin Consent Decrees and are currently necessary to ensure compliance.
- Extension of exempt positions with incumbents, provided positions are authorized and funded in FY 14.
- Granting of temporary assignment to existing employees.
- Filling of civil service positions identified for Reduction-in-Force placements, and/or for placements of disabled employees.

b.3 All vacancies permitted to be filled must be funded within currently approved departmental allocations.

- b.4 Proposed actions to establish or extend positions that are exempt from civil service pursuant to Section 76-16(b), subsections (2), (12), and (15), HRS, unless previously delegated to the departments, shall require the prior review and approval of DHRD before submission to the Governor, through B&F, for approval to fill or extend exempt positions and appointments beyond their not-to-exceed (NTE) dates.
- b.5 DHRD has provided the departments with delegated authority to review and approve civil service exemption for positions established under Section 76-16(b), subsections (3), (10), and (17), HRS. The Governor's approval is not required for extending these exempt positions and appointments beyond their NTE dates. The delegated authority to approve and extend positions under subsection (3) is applicable as long as the court order or decree is in effect and the positions cannot be filled through normal civil service recruitment procedures.
- b.6 Positions not Authorized by the Legislature. **Section 113** of Act 134, SLH 2013, prohibits the expenditure of funds, including federal funds, to fill any permanent or temporary position not authorized by the Legislature. This prohibition does not apply to:
- Positions at UH and HHSC;
 - Positions entirely funded with federal monies;
 - Positions for special projects approved by the Governor;
 - Positions established by an agency or department pursuant to explicit statutory authorization to establish such positions; and
 - Positions established by an agency or department for a program or project funded by an appropriation in an Act other than the general or Supplemental Appropriations Act.

Departments are required to provide written notification, with specific details, to the Legislature and to B&F of the intent to use the exception at least 14 days prior to commencing recruitment for the position or, if no recruitment occurs, making an offer to fill the position.

Departments which have filled positions under this exception shall submit a report listing the positions that were filled during each of the following fiscal periods:

- July 1, 2013 to December 31, 2013
- January 1, 2014 to December 31, 2014
- January 1, 2015 to June 30, 2015

These reports are due to B&F within 15 days of the end of the applicable fiscal period. B&F's summary report to the Legislature is also due within 15 days of the applicable fiscal period.

- b.7 Positions Abolished. The 2013 Legislature has required that all departments prepare a report on all positions abolished pursuant to legislative budget adjustments. Pursuant to Section 138 of Act 134, SLH 2013, the report must include the following, by program ID, for each abolished position: 1) position number; 2) position title; 3) FTE amount; 4) permanent or temporary; and 5) budgeted salary by MOF. As this report should be reflective of your department's BJ detail update for Act 134, SLH 2013, departments which did not identify specific positions to be abolished in their BJ details should explain why specific positions have not yet been abolished. This report shall be submitted to the Legislature, with a copy to B&F, by each department by August 1, 2013.

Departments which did not abolish specific positions shall also submit the appropriate FY 15 Supplemental Budget requests to abolish such positions pursuant to the applicable legislative budget adjustments.

- b.8 Job Sharing. Job sharing arrangements are allowed as long as departments operate within their allocated position and funding ceilings. Prior approval from the Governor through B&F is required.
- b.9 Recruitment Above the Minimum Pay Rate (RAM) and Hire Above the Minimum Pay Rate (HAM). Prior approval from DHRD is required for RAM. The authority to HAM has been delegated to the departments, pursuant to DHRD's September 14, 2011 memorandum, *Delegation of Authority for Hiring Above the Minimum Pay Rate for Civil Service Positions*. Governor's approval is not required.
- b.10 Procedures for Approval. Position requests requiring the Governor's approval for establishing and/or filling shall be submitted in the attached formats (Form B-2 for unauthorized or exempt positions).
- c. Position Variances. Program positions should be of the same position classification series described in the BJ details of Act 134, SLH 2013. Any variance from such authorization must be supported by appropriate justification or legislative authorization, and must be consistent with policies in A.D. No. 90-13, dated February 5, 1990, and as further provided herein.
- c.1 Department heads are delegated the authority to change a position's classification series (position variance) where the cost difference is no more than 20% above the authorized budgeted amount.

- c.2 The Governor's prior approval through B&F is required for requests to change a position's classification series where the cost difference exceeds 20% of the authorized budgeted amount.
 - c.3 Other requests to implement position variances from authorizations in Act 134, SLH 2013, or as authorized in general law, or in any other Act of the Legislature, shall also be submitted to the Governor for review in the manner prescribed above, to ensure consistency with program and legislative intent.
 - c.4 UH, DOE, Charter Schools, HSPLS, and HHSC are exempt from the provisions of 14.c.
- d. Other General Provisions.
- d.1 Each department shall provide for the most efficient and economical use of workforce.
 - d.2 Departments shall limit and monitor the use of overtime for each month. Monthly program reports shall be made available to B&F, upon request.
 - d.3 All positions and personnel-related costs shall be funded within currently approved departmental allocations. Funding for positions shall conform to the MOF indicated in the BJ details.
 - d.4 Reporting Requirement. Quarterly updates of department vacancies and positions filled shall be submitted to B&F as provided in the Quarterly Staffing Report, **Form V** (with instructions).
- UH, DOE, Charter Schools, HSPLS, and HHSC are exempt from this requirement.

NEIL ABERCROMBIE
Governor, State of Hawaii