

M ANAGEMENT M EMO

SUBJECT: EXPENDITURE AUTHORIZATION CONTROLS	NUMBER: 95-20
	DATE ISSUED: 08-22-95
	EXPIRES: Until Superseded
REFERENCES: Supersedes Management Memo 93-09 Issued May 6 , 1993	ISSUING AGENCY: Department of Finance

I. GENERAL POLICY

State programs must be administered in accordance with the plan of expenditures approved by the Legislature and itemized in the annual Budget Act. Adjustments or modifications to the plan must comply with control provisions of that Act. Therefore, departments are reminded that Budget Act control sections and other statutes require approval by the Department of Finance and notification to the Legislature before expenditures in excess of appropriations may be made. Each Agency Secretary and Department Director is responsible for compliance with the provisions of the Budget Act, as well as other administrative and statutory requirements controlling expenditures. Directors are required to advise program managers who exercise delegated powers over expenditures, about all expenditure controls, and the potential consequences for non-compliance.

It cannot be overemphasized that each Agency Secretary and Department Director has primary responsibility for management of their appropriations. If the Executive branch is to retain the flexibility to administer State programs, compliance with reporting requirements and restrictions enacted by the Legislature must be mandatory.

Section 32.00 of the annual Budget Act, Board of Control Rule 614, and Government Code Section 13324 provide that State officers or employees are expressly forbidden from making any expenditure which is not authorized without advance written consent from the Department of Finance. **In addition, any officer or employee who takes such action without Finance approval is personally liable for the amount of such unlawful indebtedness.**

Any department which makes any expenditure which is not authorized without receiving advance approval in writing from the Department of Finance will be required either to fund such expenditures from within its existing appropriations or to sponsor legislation to authorize the expenditure. This legislation will be separate from any other omnibus bill which may be proposed by the Administration. Department directors must be prepared to explain in detail why advance notice was not made.

In addition to the expenditure controls cited above, the following sections detail various other provisions regarding the limitations and notifications required with respect to expenditure adjustments.

II. SECTION 6.50 -- TRANSFERS-(INTRASCHEDULE)

Section 6.50 of the Budget Act authorizes the transfer of funds within an item of appropriation. Augmentations of any line of any schedule for personal services or operating expenses and equipment resulting from such transfer cannot exceed:

- 20 percent of the amount so scheduled for those appropriations which are \$2,000,000 or less;
- \$400,000 for those appropriations which are more than \$2,000,000 but equal to or less than \$4,000,000;
- 10 percent of the amount so scheduled for those appropriations which are more than \$4,000,000.

Departments are to certify that the cumulative total of augmentations is within the percentage limitations specified above.

Any transfer in excess of the limitations provided may be authorized upon approval of the Chairperson of the Joint Legislative Budget Committee.

Departments must be aware of the requirement that any transfer in excess of \$200,000 requires a 30-day notification letter to the Legislature. This reporting threshold of \$200,000 is an increase over the \$100,000 amount of previous years. A waiver of the 30 days may be requested of the Chairperson of the Joint Legislative Budget Committee. Budget Revisions will not be submitted to the State Controller without compliance with these reporting requirements.

Any transfer pursuant to this section, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order or the Governor, is subject to 30-day notification letter to the Legislature before approval.

Departments must certify on each Budget Revision proposing a transfer pursuant to Section 6.50 that the provisions of the Section have been met.

III. SECTION 8.50 AND GOVERNMENT CODE SECTION 9146 -- FEDERAL FUNDS

Section 8.50 expresses legislative intent that applications made by State agencies for Federal funds shall be for the maximum amount allowable under Federal law. In addition, this section provides the authority to expend Federal funds which were not appropriated in the Budget Act, subject to the reporting provisions of Section 28.00.

In accordance with Government Code Section 13326 and administrative policy, applications for Federal funds which are not included in the budget approved by the Governor or which exceed the amount specified therein must be approved by the Department of Finance and the Governor's Office prior to submission to the appropriate Federal authority. Management Memo 95-06 issued on March 9, 1995, provides instructions and the approval form for Federal fund applications. The approval form must be completed and submitted with the proposal to obtain Federal Funds to the Department of Finance at least 45 days prior to the applicable Federal deadline for submitting grant application proposals.

Section 8.50 also was amended in the 1995 Budget Act to make the reporting requirements identical in the event of reductions in Federal funding levels for block grants and other federal funds.

If Federal funds for block grants or any budget item are reduced by more than 5 percent of the amount appropriated in the Budget Act, the Department of Finance must notify the Legislature within 30 days of notification of the reduction by the Federal government. Notification must include an estimate of (a) the amount of Federal funds available or anticipated, (b) expenditures for each program affected by the reduction, (c) the effect of reduced funding on service levels authorized by the Budget Act, and (d) a plan of reduced expenditures for each program affected by the reduction. The plan shall be operational on an interim basis for up to 45 days pending legislative review, and shall become permanent thereafter. Departments must provide this information to Finance within 15 days of the date of notification of the reduction so that the 30-day notification requirement can be met.

Also Departments are advised that agencies permitted by Federal law or regulation to alter a Federal aid allocation formula to a local agency are required, under Government Code Section 9146, to notify the Joint Legislative Budget Committee **60 days prior** to the effective date of the establishment or change in the Federal aid allocation formula.

IV. SECTION 27.00 -- REPORTING DEFICIENCIES

Department directors are required to immediately notify the Department of Finance when it appears that projected expenditures for the fiscal year will exceed the authorized appropriation. No expenditure or contractual commitment to expend at a rate which will require a deficiency augmentation may be legally made by a department prior to receipt of written approval from the Department of Finance. Transmittal of notice to the Department of Finance or transmittal of notification to the Legislature by the Department of Finance shall not be construed as approval of a deficiency. Approval by the Department of Finance will be made by letter to the department after compliance with all of the provisions of Section 27.00. This approval may not be authorized sooner than thirty (30) days after legislative notification, unless waiver of the waiting period is requested and the waiver is granted by the Legislature.

Department directors are required to direct their staff to comply with the provisions of Section 27.00. Departments are reminded that no adjustment to budget planning estimates or budget galley will be made for proposed deficiencies until the written approval of the deficiency is received from the Department of Finance.

The key provisions of Section 27.00 are:

1. Within ten (10) days of receipt, the Department of Finance shall provide to the Legislature copies of all requests from agencies to spend at rates which will result in a deficiency or for a deficiency per Government Code Section 11006. The transmittal of this information to the Legislature shall not be construed by the requesting agency as approval of the deficiency request.

2. Exemption from the notification requirements is limited to caseload increases in three program areas:
 - Medi-Cal
 - Aid to Families with Dependent Children (AFDC)
 - Supplemental Security Income/State Supplementary Program (SSI/SSP)
3. For an "emergency expenditure", the required notification to the Legislature is replaced by a notification not later than ten days after the effective date of the approval. However, the Legislature has strictly defined "emergency expenditure" as an expenditure incurred in response to conditions of disaster or extreme peril which threaten the health or safety of persons or property within the state.
4. The 1995 Budget Act includes a new requirement that the Department of Finance determine whether any deficiency funding request was previously denied by the Legislature and report the reasons for the denial in the notification letter.

V. SECTION 28.00 -- PROGRAM CHANGE NOTIFICATION

Section 28.00 provides authority to the Director of Finance to adjust expenditure levels approved by the Legislature without increasing the net appropriation authorized by the Legislature. The Director of Finance may either augment or reduce the amount available for expenditure for any Budget Act category or program, or any additional category or program, subject to the following specified conditions and reporting requirements.

Regardless of funding source, the following transactions, including increases or decreases to reimbursements, may not be authorized sooner than thirty (30) days after legislative notification, unless waiver of the waiting period is requested and granted by the Legislature:

- Augmentations or reductions to an existing program which either are (a) in excess of \$200,000 or (b) in excess of 10 percent of the amount available for expenditure in the affected category or program. The reporting threshold of \$200,000 is an increase over the \$100,000 of previous years.
- Any augmentation which the Director of Finance determines constitutes (a) a new program or (b) an increase in the level of services above that authorized by the Budget Act or other existing law.
- Any reduction which the Director of Finance determines constitutes a decrease in the level of services below that authorized by the Budget Act or other existing law.
- Any augmentation, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order of the Governor.

This legislative notification requirement is not applicable to federal funds related to caseload increases in Medi-Cal, AFDC and SSI/SSP.

Although Section 28.00 is utilized primarily to adjust appropriated expenditure levels for federal funds and reimbursements, its provisions may be applicable to issues involving any funding source. For example, there are numerous requirements interspersed throughout the Budget Act which mandate reporting pursuant to the provisions of Section 28.00 regardless of funding source.

Finally, no expenditure may be made from any funds proposed in a Section 28.00 letter prior to approval and return of the Section 28.00 application by the Department of Finance. Should a department expend funds without proper approval, it will be required either to absorb such expenditures within its base appropriation or to sponsor legislation to authorize the expenditure.

Please note that several of the control sections above are interrelated, and may require compliance reporting pursuant to more than one of the sections.

Please contact your Department of Finance budget analyst if you have any questions regarding the above mandated reporting requirements.



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