VACANT POSITIONS REPORT **6445**
(Revised 09/10)

Chapter 1124, Statutes of 2002, as amended by Chapter 227, Statutes of 2004, made major changes to Government Code (GC) section 12439 relating to the abolishment of vacant positions. The major changes include:

- State Controller's Office (SCO) is to identify and abolish vacant positions that are vacant for six consecutive monthly pay periods, during the fiscal year or between two consecutive fiscal years. The rolling six months began July 1, 2002.
- A mechanism for departments to self-certify re-establishments by August 15 for positions that meet specified conditions during the vacancy period.
- Prohibits departments from executing any personnel transactions for the purpose of circumventing the provisions of the Section, e.g., 120 transactions.
- Each department is required to include a section discussing its compliance with this section when it prepares its report pursuant to GC section 13405.

On July 1 of each year, the SCO will abolish the continuously vacant position(s). These abolished positions will not appear on the Schedule 8 or 7A. The SCO will generate an initial listing for departments by mid-July. The positions can be eliminated from the abolishment listing for any SCO technical errors, departmental self-certifications of positions to be exempted from the abolishment, or any Department of Finance (Finance) authorized reestablishments meeting specified criteria.

Technical Errors. Departments are responsible for reviewing the listing and resolving any discrepancies or errors, e.g., late document submittal by departments or late processing of personnel documents by the SCO. Departments are to work directly with the SCO to resolve the discrepancies, (Finance approval is not necessary) between July and August 15. If the position(s) are not to be abolished, the departments must add the positions back on the Schedules 8 and 7A, and report the adjustments on the Schedule 8 Summary. See SAM Section 6448.

If departments miss the August 15 deadline, they may submit Change in Established Positions, STD 607 forms, to Finance between August 15 and September 10 to obtain approval to reestablish technical correction positions. Requests must include complete justification for late technical changes. These STD 607s must include the letter "X" preceding the document number.

Department's Self Certification Criteria. The SCO will reestablish positions when the Director of a department certifies by August 15, one or more of the following criteria existed during part or all of the six consecutive pay periods for the abolished position(s):

- Directly provides 24-hour care in an institution operated by the State.
- Necessary for the State to satisfy any licensing requirements adopted by a local, State, or federal licensing or other regulatory agency.
- Directly involved in services for public health, public safety, or homeland security.
- Held vacant because the previous incumbent is eligible to exercise mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, non-industrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- Held vacant because a department granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- Directly reduces State revenues or other income by more than would be saved by the elimination of the position.
- Positions established and funded from moneys appropriated pursuant to Sections 221 and 221.1 of the Food and Agriculture Code which directly respond to unforeseen agricultural circumstances requiring the relative expertise that the position provides.

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Departments must prepare a Change in Established Positions, STD 607 form, for each position to be reestablished for one or more of the above criteria. The SCO must receive the STD 607 form no later than 5:00 p.m. on August 15. STD 607 forms received after August 15 will be returned to the department instructing them to obtain approval to reestablish the position(s) from Finance. These documents must be received by Finance no later than September 10.

STD 607 documents submitted from July 1 through August 15 to reestablish self certified positions must include the alpha letter "Z" preceding the document number.

Departments must add the approved position(s) back on the Schedule 8 and 7A that are self certified positions that are reestablished by SCO or subsequently approved by Finance.

In addition, each department shall maintain for future independent audit, all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified above.

After August 15, the SCO will update its position control system and prepare and submit a preliminary Abolished Vacant Position Report to Finance by September 10.

Additional reestablishment circumstances. Upon written request by departments, Finance may also approve the reestablishment of positions in the following circumstances:

- A hiring freeze was in effect during part or all of the six consecutive pay periods.
- The department has diligently attempted to fill the position, but was unable to fill within six months.
- The position is designated as a management position and was held vacant pending the appointment of the director, or other chief executive officer, as part of the transition from one Governor to the succeeding Governor.
- The classification of the position is determined to be hard-to-fill.
- Late budget enactment contributed to the delay in filling of the positions.

Departments may submit a STD 607 at any time during the year to their Finance budget analyst requesting reestablishment of a position under one or more of the above. The request must include complete justification regarding the specifics of the circumstances surrounding the abolishment of the position and rationale/need for reestablishment. When Finance approval is required, departments must not send any request to reestablish positions directly to the SCO.

All STD 607 forms must be processed by Finance to SCO prior to September 30 in order for the SCO to include the corrections in the Final Abolished Vacant Position Report that is submitted to the Legislature and Finance by October 15.

Positions abolished by the SCO, under the provisions of GC section 12439, are not authorized and are not to appear on the Schedule 8 and 7A, unless specifically approved by Finance. Departments are to display the abolished positions at the end of the Schedule 7A after the Totals, Authorized Positions line. Positions are to be arranged in the same order they would have appeared in the Schedule 7A and under the appropriate organizational headings. The title to be used is Continuously Vacant Positions Abolished by SCO per Government Code Section 12439.