

STATE OF NEW JERSEY

In the Matter of Program Monitor (M0371S), City of Bayonne

CSC Docket No. 2017-3069

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Appointment Waiver

ISSUED: NOV - 2 2017 (AMR)

The City of Bayonne requests permission not to make an appointment from the March 23, 2015 certification for Program Monitor (M0371S).

The record reveals that the City of Bayonne provisionally appointed Samantha Howard, pending open competitive examination procedures to the subject title, effective February 1, 2014. An examination was announced with a closing date of June 10, 2014 that resulted in a list of 12 eligibles with an expiration date of March 18, 2018. It is noted that Howard is no longer serving as a Program Monitor and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that Howard took a position with the Bayonne Economic Opportunity Foundation (BEOF). The City of Bayonne has entered into an interlocal agreement with the BEOF, allowing the BEOF to manage and operate the Community Development Block Grant (CDBG) program that was the responsibility of the Program Monitor. Therefore, the city no longer needs to maintain a position in that title.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Samantha Howard, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the Program Monitor title was no longer warranted due to the BEOF managing and operating the CDBG program, which was the responsibility of the Program Monitor. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both N.J.S.A. 11A:45 and N.J.A.C. 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to maintain the position of Program Monitor after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON THE $1^{\rm st}$ DAY OF NOVEMBER, 2017

Robert M. Czedb Chairperson Civil Service Commission

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