



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Housing Coordinator
(M0942R), Newark

CSC Docket No. 2015-1216

Appointment Waiver

ISSUED: JUN 18 2015 (WR)

Newark requests permission not to make an appointment from the March 7, 2014 certification for Housing Coordinator (M0942R), Newark.

The record reveals that the appointing authority provisionally appointed Gregory Good, pending open competitive examination procedures, to the subject title, effective December 3, 2012. The examination was announced with a closing date of October 30, 2013. Nineteen applicants, including Good, applied for the subject examination. The resulting eligible list of six names promulgated on February 27, 2014 and expires on February 26, 2017. Good was found ineligible for the examination. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. A certification was issued on March 7, 2014 containing the names of all six eligibles. The appointing authority returned the certification on September 24, 2014 and indicated that it would not make a permanent appointment since Good was no longer serving in the title. The appointing authority thereafter requested a waiver of the appointment requirement and the costs because it was "under budgetary constraints."

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. No further arguments were received.

A review of agency records reveals that Good's provisional service was terminated, effective August 29, 2014. Agency records also reveal there are

currently no other employees serving provisionally pending open competitive examination procedures in the subject title in Newark.

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 the result of the provisional appointment of Good to the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver because the provisional was no longer serving provisionally in the subject title. Therefore, since no one is currently serving provisionally, pending open-competitive examination procedures, in the subject title with the appointing authority, there is sufficient justification for an appointment waiver.

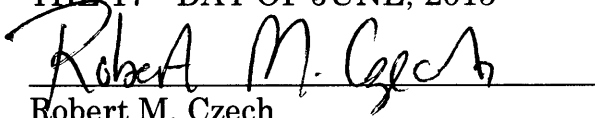
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and 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 the instant situation, the appointing authority merely stated that Good was no longer serving provisionally at the time of the certification and that due to fiscal constraints, it requested that the costs of the selection process be waived. However, although the Commission is sympathetic to the appointing authority's situation, its economic problems, while serious, are no less than those encountered by many, if not most other New Jersey county and municipal governments. Furthermore, reimbursement of selection costs pursuant to *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 does not place an undue burden on the appointing authority or prohibit it from looking towards other cost saving measures. 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 the request for a waiver of the appointment requirement be granted. Additionally, the 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 17th DAY OF JUNE, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Kecia Daniels
Kenneth Connolly
Joseph Gambino
Beth Wood

