



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Police Aide
(M0314P), Borough of Rutherford

Administrative Appeal

CSC Docket No. 2016-1858

ISSUED: **NOV 15 2016** (SLD)

In *In the Matter of Police Aide (M0314P), Borough of Rutherford* (CSC, decided June 26, 2013), the Civil Service Commission (Commission) granted the request of the Borough of Rutherford (Rutherford) for an appointment waiver for the November 26, 2012 certification and ordered that no selection costs would be assessed at that time since there was a possibility that the list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the appointing authority did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.

Agency records reveal that one certification was issued from the subject eligible list on November 26, 2012. However, the certification was cancelled and no appointments were made. Therefore, Rutherford was notified that since the eligible list was not utilized by its expiration date, the matter of the costs for the selection process in the amount of \$2,048 would be forwarded to the Commission for a determination. However, no response was received.

CONCLUSION

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

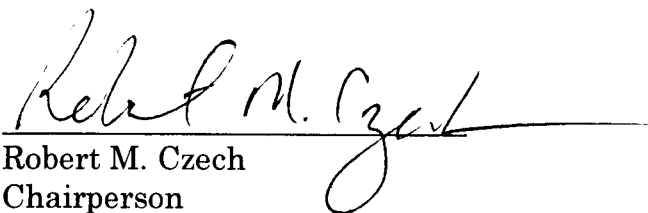
make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. The amount of \$2,048 has been determined to be the cost of the selection process for open-competitive examinations for local government positions. In the instant situation, although the appointing authority had shown a valid reason for not making an appointment from the subject eligible list, it failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. In this regard, the appointing authority had requested that the examination for the subject title be announced. Moreover, only after the certification was issued did the appointing authority request that it be cancelled. Finally, although the appointing authority indicated that it may utilize the subject eligible list in the future, it failed to do so. Thus, it is appropriate that the appointing authority be assessed the costs of the selection process.

ORDER

Therefore, it is ordered that Borough of Rutherford be assessed the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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 10TH DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

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and
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Attachment

c: Margret Scanlon
Kelly Glenn
Beth Wood

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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Police Aide
(M0314P), Rutherford

CSC Docket No. 2013-2906

Appointment Waiver

ISSUED: **JUN 26 2013** (BYM)

Rutherford requests permission not to make an appointment from the November 26, 2012 certification for Police Aide (M0314P).

The record reveals that in March 2012, the appointing authority submitted a request to the Division of Classification and Personnel Management to fill four part-time vacancies in the title of Police Aide. The examination was announced with a closing date of May 1, 2012. The examination resulted in an eligible list of 50 individuals which promulgated on November 22, 2012 and expires on November 21, 2015. The appointing authority requested a certification from the list and on November 26, 2012, a certification was issued which contained the names of 21 eligibles.

The appointing authority returned the certification on April 30, 2013, indicating that its newly appointed Chief of Police (Chief) required further time to review the process of hiring a Police Aide and it would not currently be utilizing the list. 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. See *N.J.A.C. 4A:10-2.2(a)1*.

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. In response, the appointing authority requests a waiver of the costs of the selection process stating that the Chief was sworn in on April 4, 2013 and only became aware of the Police Aide vacancies shortly after his appointment. In this regard, the appointing authority asserts that no plan had previously been put in place for the positions and

the Chief must determine the duties, responsibilities, training and other criteria associated with the Police Aide positions. Thus, due to the additional time needed for the new Chief to complete the necessary procedures prior to making appointments, the appointing authority indicates that it will be utilizing the list in the near future and requests that the selection costs be waived.

A review of agency records reveals that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title.

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 a request by the appointing authority to fill four vacancies in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver due to the hiring of a new Chief of Police and the additional time needed to establish procedures for the Police Aide position. It further requested a waiver of the selection costs indicating that it intends to make a permanent appointment from the list in the near future. Accordingly, based on the foregoing, the appointing authority has presented adequate justification for granting an appointment waiver.

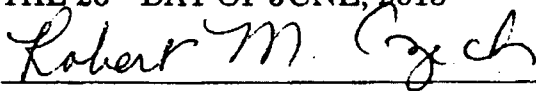
Although an appointment waiver is granted in this matter, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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. However, since the appointing authority has indicated its intention to utilize the list prior to its November 21, 2015 expiration date, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of November 21, 2015, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of appointment requirement be granted and no selection costs presently be assessed.

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 26TH DAY OF JUNE, 2013



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