



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Senior Management  
Assistant (S0562P), Statewide

Administrative Appeal

CSC Docket No. 2016-3790

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

In *In Matter of Senior Management Assistant (S0562P), Statewide* (CSC, decided November 7, 2013), the Civil Service Commission (Commission) granted the request of the State Parole Board for an appointment waiver for the April 22, 2013 certification and ordered that no selection costs would be assessed at that time since there was a possibility that the eligible list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the State Parole Board did not utilize the 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 April 22, 2013. However, the certification was cancelled as a result of the appointment waiver request. No appointments were made from the eligible list, which promulgated on April 18, 2013 with 73 eligibles and expired on April 17, 2016. Therefore, the State Parole Board 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 \$8,285 would be forwarded to the Commission for a determination.

In response, the State Parole Board indicates that it terminated the provisional employees, effective October 11, 2013, and had requested an appointment waiver based on the restructuring of the employees' positions due to significant changes made by the Administrative Office of the Courts in court document processing. It requests that the Commission waive the costs of the selection process based on the Commission's prior determination, as it had determined that there was adequate justification for granting the appointment

waiver and not assessing costs at the time.

### CONCLUSION

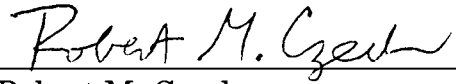
*N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions 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 \$8,285 has been determined to be the cost of the selection process for open-competitive examinations for State 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 has 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 subject eligible list was generated with the names of 73 eligibles as a result of the appointing authority appointing two provisional employees. The provisional employees were still serving at the time of the certification on April 18, 2013, and were not terminated until October 11, 2013. Additionally, the State Parole Board has presented absolutely no basis to waive the selection costs in the matter. It merely asks that the Commission do so based on its prior determination, which did not assess selection costs at the time. However, the prior determination also indicated that the Commission would review the matter in the event that the subject eligible list was not utilized. The eligible list has not been utilized by this or any State appointing authority. Thus, it is appropriate that the appointing authority be assessed the costs of the selection process. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided April 11, 2007) (Costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

### ORDER

Therefore, it is ordered that the State Parole Board be assessed the costs of the selection process in the amount of \$8,285 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 10<sup>TH</sup> DAY OF NOVEMBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

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Attachment

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B-45



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Senior Management  
Assistant (S0562P), Statewide

CSC Docket No. 2014-445

Appointment Waiver

ISSUED: **NOV 07 2013** (BYM)

The State Parole Board requests permission not to make an appointment from the April 22, 2013 certification for Senior Management Assistant (S0562P), Statewide.

The record reveals that on March 31, 2010, the appointing authority provisionally appointed Joseph Inverso and Christopher Williams, pending open competitive examination procedures, to the subject title. The examination was announced with a closing date of July 24, 2012. The examination resulted in an eligible list of 73 individuals which promulgated on April 18, 2013 and expires on April 17, 2016. It is noted that Inverso did not pass the examination and Williams is ranked at number 36 on the list. On April 22, 2013, a certification was issued which contained the names of 51 eligibles.

The appointing authority returned the certification on July 31 2013, indicating that the provisional appointees were removed from the title and requested cancellation of the certification. 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 \$8,285. In response, the appointing authority states that it requested the subject certification in anticipation of two vacancies in the Senior Management Assistant title. However, it indicates that after it requested the certification, the Administrative Office of the Courts made significant changes in the processing of court documents, which

eliminated the need for a Senior Management Assistant to research and obtain these documents. In this regard, the two provisional appointees were terminated from employment effective October 11, 2013. Thus, the appointing authority requests a waiver of the appointment requirement and waiver of the selection costs.

A review of agency records indicates that there are currently no employees serving provisionally pending open competitive examination procedures within the State Parole Board in the title of Senior Management Assistant.

### 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 appointments of Joseph Inverso and Christopher Williams to the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver. It stated that the subject title was no longer required due to a restructuring of job duties and workflow procedures. Accordingly, based on the foregoing, the appointing authority has presented adequate justification for granting an appointment waiver.

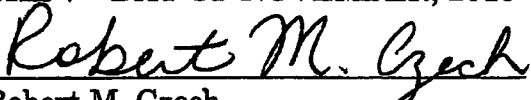
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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, the Civil Service Commission (Commission) notes that the list in question will not expire until April 17, 2016. Further, the Commission notes that the list is of such duration as to make utilization by this or another appointing authority probable. Accordingly, under the particular circumstances of this matter, 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 list is not utilized by its expiration date of April 17, 2016, 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 7<sup>TH</sup> DAY OF NOVEMBER, 2013

  
Robert M. Czech  
Chairperson

Inquiries  
and  
Correspondence

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c: Lise Kirsten S. Higgins  
Kenneth Connolly  
Joseph Gambino  
Beth Wood

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