

B-17



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Senior Water  
Treatment Plant Repairer (M0293S),  
Passaic Valley Water Commission

Appointment Waiver

CSC Docket No. 2016-1917

ISSUED: JUN 09 2017 (ABR)

The Passaic Valley Water Commission requests permission not to make an appointment from the September 9, 2014 certification for Senior Water Treatment Plant Repairer (M0293S).

The record reveals that the appointing authority provisionally appointed, pending open-competitive examination procedures, an individual to the title of Senior Water Treatment Plant Repairer, effective December 23, 2013. This provisional appointment generated an open-competitive examination announcement (M0293S) for the subject title with a closing date of May 7, 2014. The resulting eligible list of three names promulgated on September 4, 2014 and expires on September 3, 2017. The appointing authority took no action to obviate the need for examination at the time of the announcement or prior to the administration of the examination. On September 9, 2014, the names of three eligibles were certified to the appointing authority from the subject eligible list. The appointing authority did not return the September 9, 2014 certification to this agency for disposition. On January 12, 2015, the Division of Agency Services (Agency Services) issued a Notice of Violation requiring prompt and proper disposition of the certification. Subsequently, on February 17, 2015, Agency Services issued a Salary Disapproval Order against the provisional. On July 20, 2015, Agency Services issued a letter to the appointing authority, renewing its request that the appointing authority properly dispose of the subject certification. In response thereto, the appointing authority requested an appointment waiver based upon the provisional employee's retirement, effective May 1, 2015, and its determination that it no longer had a need to fill a position in the subject title. The appointing authority also advised



that if it was not required to fill the position, it could utilize those funds to address other operational needs associated with its mission of providing safe drinking water to users of its water system.

Thereafter, Agency Services referred the matter to the Division of Appeals and Regulatory Affairs (DARA). DARA acknowledged the appointing authority's request for an appointment waiver and advised it 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 there are currently no individuals serving provisionally 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 for a list 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 by the Commission for a valid reason such as fiscal constraints.

In the instant matter, the open-competitive examination for the subject title was generated as a result of the provisional appointment of an employee to the subject title, effective December 23, 2013. However, after a complete certification was issued, the appointing authority requested an appointment waiver. In its request, the appointing authority states that the provisional employee retired, effective May 1, 2015, and that it had determined that it did not have a current need to fill the vacancy in the subject title. The appointing authority maintains that vacating the position will allow it to allocate additional funds towards other operational needs. Under these circumstances, the appointing authority has presented adequate justification for granting an appointment waiver.

Although the appointment waiver is granted, 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although a valid reason for not making an appointment from the subject eligible list exists, the appointing authority has failed to provide a sufficient



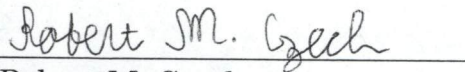
basis for not being charged for the costs of the selection process which produced the subject eligible list. Accordingly, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

### 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 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 7<sup>TH</sup> DAY OF JUNE, 2017



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