

## STATE OF NEW JERSEY

In the Matter of Manager, Public Property (M0478T), Millville

CSC Docket No. 2018-2955

## FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

**Appointment Waiver** 

**ISSUED:** June 21, 2018 (AMR)

The City of Millville requests permission not to make an appointment from the October 28, 2015 certification Manager, Public Property (M0478T).

The record reveals that the City of Millville provisionally appointed Michael McDowell, pending open competitive examination procedures to the subject title, effective February 10, 2015. An examination was announced with a closing date of July 16, 2015 that resulted in an incomplete list of one eligible with an expiration date of October 21, 2018. It is noted that McDowell is no longer serving as a Manager, Public Property 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 list was incomplete and the provisional appointee was no longer serving.

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 Michael McDowell, who is no longer serving in the subject title. However, after a certification was issued, the appointing authority requested an appointment waiver, explaining that due to an incomplete list, and 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: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. In this case, the appointing authority's determination that it no longer needs to maintain the position of Manager, Public Property 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  $2^{\rm 0th}$  DAY OF JUNE, 2018

Deirdré L. Webster Cobb

Acting Chairperson

Civil Service Commission

Inquiries Christopher S. Myers

and Director

Correspondence Division of Appeals and

Regulatory Affairs

Civil Service Commission Written Record Appeals Unit

P.O. Box 312

Trenton, New Jersey 08625-0312

c: Pamela Shapiro Kelly Glenn

Beth Wood