

appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

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 examination for the subject title was generated based on the appointing authority's appointment of a provisional employee. However, after a complete certification was issued, the appointing authority requested an appointment waiver. The appointing authority indicated that the provisional was appointed to PAP status on March 18, 2017. 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. However, as this is a Statewide list and there have been 15 certifications and 13 appointments from the list, no costs of the selection process shall be assessed.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs 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 4TH DAY OF NOVEMBER 2020

Deirdre' L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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