



FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Appointment Waiver

ISSUED: **JUN 18 2015** (WR)

The record reveals that the appointing authority provisionally appointed Tahirah Cooper, pending open competitive examination procedures, to the subject title, effective January 21, 2014. The examination was announced with a closing date of May 7, 2014. It is noted that Cooper did not apply for the subject examination. The resulting eligible list of three names promulgated on August 14, 2014 and expires on August 13, 2017. 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. A certification was issued on August 18, 2014 containing all three eligibles. The appointing authority returned the certification on September 24, 2014 and indicated that it would not make a permanent appointment since Cooper was no longer serving in the title. The appointing authority thereafter requested a waiver from the appointment requirement and costs because it was "under budgetary constraints."

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. No further arguments were received.

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

subject title with Newark. Agency records further indicate that Cooper was appointed to the unclassified position of Aide to the Mayor, effective July 1, 2014.

A review of the job specification for Aide to the Mayor reveals that an individual in that title acts as a personal aide and liaison between the mayor and the public and/or various governmental agencies; performs varied administrative duties, some of which may be of a confidential nature and/or involve elements of trouble shooting. A review of the job specification for Senior Community Relations Specialist, Bilingual in Spanish and English reveals that an individual in that title performs the more difficult and responsible field and office work in the organization and development of a community relations program to promote unity in a community.

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 appointment of Cooper to the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver because Cooper was no longer serving in the subject title. A review of the relevant job specifications indicates that an individual in the title of Aide to the Mayor performs sufficiently different duties than an individual in the title of Senior Community Relations Specialist, Bilingual in Spanish and English. Moreover, there are no employees serving provisionally in the subject title with the appointing authority. Accordingly, there is 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 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 matter, the appointing authority requests that the cost of the selection process be waived due to its fiscal constraints. However, although the Commission is sympathetic to its situation, the appointing authority's economic

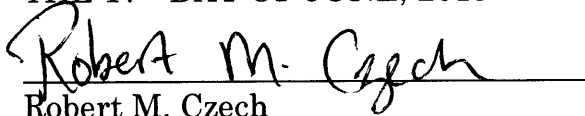
problems, while serious, are no less than those encountered by many, if not most other New Jersey county and municipal governments. Furthermore, reimbursement of selection costs pursuant to *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* does not place an undue burden on the appointing authority or prohibit it from looking towards other cost saving measures. 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 the request for a waiver of the appointment requirement be granted. Additionally, the 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 17th DAY OF JUNE, 2015


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