



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Michael Curley and
Dah-Pah Shu, Contract
Administrator 3 (PS4493G),
Department of Environmental
Protection

Examination Appeals

CSC Docket Nos. 2018-415 and 2018-
405

ISSUED: **OCT 19 2017** (SLK)

Michael Curley and Dah-Pah Shu appeal the determinations of the Division of Agency Services (Agency Services) that they did not meet the experience requirements for the promotional examination for Contract Administrator 3 (PS4493G), Department of Environmental Protection. These appeals have been consolidated due to common issues presented.

The examination at issue was announced with specific requirements that had to be met as of the March 21, 2017 closing date (see attached). A total of seven employees applied for the subject examination. The test was administered on August 8, 2017 and three employees were determined eligible. A review of agency records indicates that there is one employee in the unit scope to which the examination was open, Mr. Shu, who is serving provisionally in the subject title.

Mr. Curley indicated on his application that he was an Environmental Engineer 3 from December 2011 to the March 21, 2017 closing date¹ and he served in a various other Environmental Engineering titles starting in June 1987. Agency Services determined he did not meet the experience requirements. It found that if he was performing the required duties, it was out-of-title work.

¹ Mr. Curley's application indicates that he started as an Environmental Engineer 3 in January 1991, but personnel records indicate that he started in this title in December 2011.

Mr. Shu indicated on his application that he was provisionally serving in the subject title from June 2016 to the March 2017 closing date, an Environmental Engineer 4 from December 2011 to June 2016, a Supervising Environmental Engineer, Water Resource from March 1994 to December 2011,² and in other Environmental Engineer titles starting in December 1980. Agency Services credited him for his 10 months of provisional service in the subject title, but determined he lacked the required experience. It found that he was performing the required duties as far back as December 2006, but that these duties as an Environmental Engineer 3 and as a Supervising Environmental Engineer, Water Resource were out-of-title.

On appeal, Mr. Curley submits *In the Matter of Michael Curley, Contract Administrator 2 (PS8544G)* (CSC, decided July 15, 2015) were the Civil Service Commission (Commission) found that he had been performing the required duties since October 2011. He asserts that he now has an additional one and a half year of the required experience since that decision. Additionally, Mr. Curley submits a performance assessment review and a prior letter from Robin Liebeskind, Director, Division of Human Resources, which confirm that the he has been performing the required duties.

Mr. Shu submits a letter from Ms. Liebeskind who confirms that he has been performing the required duties out-of-title since January 2011 to meet their operational needs. Additionally, Mr. Shu submits an October 18, 2016 letter that resulted from a classification appeal, where Agency Services determined that Mr. Shu was performing the required duties for the subject title. Moreover, Mr. Shu attaches performance assessment reviews from as far back as 2006 to demonstrate that he has been performing the required duties.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c)1 provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process.

Initially, it is noted that Agency Services correctly determined that the appellants were not eligible as although they were performing the required duties, these duties are considered out-of-title work. However, a review of the record, as confirmed by Ms. Liebeskind, performance assessment reviews, and prior

² Mr. Shu's application described different duties while serving as a Supervising Environmental Engineer, Water Resource from December 2006 to January 2011 and from March 1994 to December 2006.

Commission decisions or Agency Services Classification determinations, indicates that Mr. Shu has been performing the required duties out-of-title since December 2006 and Mr. Curley has been performing the required duties out-of-title since October 2011 due to the appointing authority's operational needs. The Commission notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. *See Communications Workers of America v. New Jersey Department of Personnel*, 154 N.J. 121 (1998). Accordingly, per N.J.A.C. 4A:4-2.6(c) good cause exists to accept the appellants' out-of-title work experience, for eligibility and scoring purposes only, and admit them to the examination.

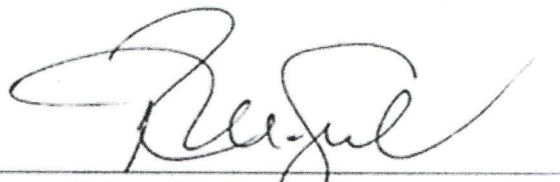
It is noted that this remedy is limited to the particular circumstances of this matter and does not set a precedent in any other matter.

ORDER

Therefore, it is ordered that these appeals be granted and Michael Curley's and Dah-Pah Shu's applications be processed for current employment opportunities.

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 18th DAY OF OCTOBER, 2017



Robert M. Czedz, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
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Attachment

c: Michael Curley 2018-415
Dah-Pah Shu 2018-405
Robin Liebeskind
Kelly Glenn
Records Center

NEW JERSEY CIVIL SERVICE COMMISSION-STATE SERVICE
PROMOTIONAL ANNOUNCEMENT



\$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: PS4493G

WEIGHT CODE: *

TITLE: CONTRACT ADMINISTRATOR 3

SALARY: \$74,252.00 - \$105,891.00

ISSUE DATE: March 01, 2017

CLOSING DATE: March 21, 2017

TITLE CODE: 51250/OPRXR9

CLASS CODE: 29

DEPARTMENT: EPA/ENVIRONMENTAL PROTECTION

UNIT SCOPE: G783 Division of Water Quality

**APPLICATIONS MAY BE OBTAINED
 FROM AND MUST BE RETURNED TO:**

**Visit www.state.nj.us/csc
 And select "Job Announcements"
 to view this announcement and to file an application**

Open to employees in the competitive division who are currently serving in a title to which the announcement is open and have an aggregate of one year of continuous permanent service as of the closing date in the following title(s):

Contract Administrator 2

Or to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements listed below:

Education: Graduation from an accredited college or university with a Bachelor's degree. You must indicate either possession of a degree or total number of college credits completed to date on your application. (Foreign degrees/ transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

Applicants who do not possess the required education may substitute additional experience as indicated on a year for year basis with thirty (30) semester hour credits being equal to one (1) year of experience.

Experience: Four (4) years of experience involving contract/grant work, project financing, construction management, financial administration, social services administration, and/or budget and management operations of a government or business entity, at least two (2) years of which shall have involved responsibility for some aspect of contract/grant work administration.

Note: A Master's degree from an accredited college or university in Accounting, Finance, Business Administration, Public Health, Public or Hospital Administration or Social Work (with concentrations in Health, Administration, or Social Policy) may be substituted for one (1) year of the basic experience. (There is no substitution for the two (2) years of experience involving responsibility for some aspect of contract/grant work.) You must indicate the details of your Master's degree on your application. (Foreign degrees/transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

License: Appointees will be required to possess a driver's license valid in New Jersey only if the operation of a vehicle rather than employee mobility, is necessary to perform the essential duties of the position. The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate, rests with the Appointing Authority.

Note: This announcement may be tested via the Supervisory Test Battery, a computer-administered exam. For information regarding the Supervisory Test Battery, please refer to our website <http://www.state.nj.us/csc/seekers/about/steps/step7.html>.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to the department and unit scope, and satisfying the permanent status requirement.
2. ONLY ON-LINE APPLICATIONS WILL BE ACCEPTED. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL. Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full- and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill full-time and part-time positions. If 35- and 40-hour positions are used within the unit scope, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c 26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the Department of Military and Veterans Affairs (DMAVA) (as defined by N.J.S.A. 11A:5-1 et seq.). Those claiming Veterans Preference but have not yet received approval from DMAVA must pay the full application fee and may request a refund if the claim is approved at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.
6. SPECIAL NOTE TO ALL APPLICANTS Please make sure you are assigned to the unit scope indicated above. If you do not know your unit scope assignment, please contact your Human Resource Office. If you file an application for this announcement and you are not assigned to the unit scope indicated above, YOU WILL BE FOUND INELIGIBLE FOR THIS EXAM AND YOUR APPLICATION FEE WILL NOT BE REFUNDED.
7. If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: OAS.support@esc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside regular business hours on the closing date will not change the application filing deadline so PLEASE FILE EARLY.

8. Application fees submitted via personal check or money order must be postmarked within **five (5) business days** of submitting your application. If your fee is postmarked after five (5) business days, or is returned as invalid, you will be declared ineligible and denied admittance to the examination process.

DPF-256A * Revised 07/06