



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Crime Prevention
Specialist (M0296T), City of Orange

Appointment Waiver

CSC Docket No. 2019-1911

ISSUED: AUGUST 16, 2019 (JET)

The City of Orange requests permission not to make an appointment from the OL160085 certification for Crime Prevention Specialist (M0296T), City of Orange.

The record reveals that the appointing authority provisionally appointed Nicole Gurmandy-Amos, pending open competitive examination procedures, to the subject title, effective December 14, 2014. The examination was announced with a closing date of May 29, 2015. The resulting list of 23 eligibles promulgated on January 28, 2016 and expired on January 27, 2019. A certification was issued on February 1, 2016 that contained the names of five eligibles (OL160085). Gurmandy-Amos' name did not appear on the subject list. Gurmandy-Amos' provisional appointment as a Crime Prevention Specialist was discontinued effective April 22, 2016, as she was as she was appointed as a provisional Assistant Administrative Analyst. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement prior to its administration.

By letter dated January 24, 2019 and by e-mail dated May 14, 2019, the appointing authority was notified that, as there was no longer a provisional serving in the subject title, it may request an appointment waiver. It was also notified that, if an appointment waiver was granted, it would be assessed selection costs in the amount of \$2,048. Despite being provided an opportunity, the appointing authority did not provide a response.

A review of agency records reveals that there are currently no employees serving provisionally in the subject title with the City of Orange.

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 due to the appointing authority's appointment of a provisional employee to the subject title. However, after the OL160085 certification was issued, the appointing authority removed the provisional appointee who was serving in the subject title and appointed her to another title. Additionally, the list expired on January 27, 2019 and it did not request an extension of the subject list. As there is no longer a provisional appointee serving in the subject title and the appointing authority did not respond or indicate the names of any candidates that it plans to appoint, there is sufficient justification for an appointment waiver.

N.J.S.A. 11A:4-5 and *N.J.A.C. 4A:10-2.2(a)2* provide that an appointing authority 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. While the Civil Service Commission (Commission) recognizes that the only provisional employee in the subject position was appointed to another position, the appointing authority did not take any action to obviate the need for the examination at the time of the announcement or prior to its processing. Furthermore, the appointing authority, despite being provided with the opportunity, did not provide substantive justification or arguments to waive the costs. Therefore, the appointing authority has failed to present a sufficient basis for not being charged for the costs of the selection process which produced it. Thus, a waiver is granted and, as such, 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 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 14th DAY OF AUGUST, 2019



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