



B-42

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Accounting Assistant
(C0961R), Middlesex County

Appointment Waiver Request

CSC Docket No. 2015-1361

ISSUED: MAR 10 2015

(LDH)

Middlesex County requests permission not to make an appointment from the April 14, 2014 certification for Accounting Assistant (C0961R).

The record reveals that the appointing authority provisionally appointed Nicholas Jeglinski, pending open-competitive examination procedures to the title of Accounting Assistant, effective September 30, 2013. As a result of the provisional appointment, an examination was announced with a closing date of November 7, 2013. It is noted that Jeglinski did not apply for the subject examination. The resulting eligible list of 24 names promulgated on April 10, 2014 and expires on April 9, 2017. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On April 14, 2014, the names of 13 eligibles were certified from the subject eligible list. The appointing authority returned the certification and requested an appointment waiver as there were no provisional employees in the subject title. In its request for an appointment waiver, the appointing authority asserted that it could not appoint one of the eligible individuals on the certification due to 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. In response, it asserted that Jeglinski did not have an opportunity to take the examination. In this regard, it maintained that the employee who handled all Civil Service matters

on behalf of the county was attending to some personal matters that contributed to that employee failing to notify Jeglinski of the subject announcement.

Personnel records reveal that Jeglinski was appointed to the non-competitive title of Assistant Budget Examiner, effective November 19, 2014. Agency records reveal that there are no employees serving provisionally in the subject title with the appointing authority.

A review of the job specification for Accounting Assistant reveals that an individual in that title does the work involved in preparing financial records and in maintaining an accounting system. A review of the job specification for Assistant Budget Examiner reveals that an individual in that title aids in analyzing budget requests and the preparation of recommendations thereon.

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 for a valid reason such as fiscal constraints.

In the instant matter, the examination for the title of Accounting Assistant was generated as a result of the provisional appointment of Jeglinski. After a complete certification was issued, the appointing authority appointed Jeglinski to the non-competitive title of Assistant Budget Examiner. A review of the relevant job specifications indicates that an individual in the title of Assistant Budget Examiner performs sufficiently different duties than an individual in the title of Accounting Assistant. Accordingly, based on the foregoing, there is sufficient justification for 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. In the instant situation, the appointing authority stated that due to fiscal constraints and the untimely notice to the provisional it would not make any appointments from the subject eligible list. However, not only was Jeglinski still serving provisionally at

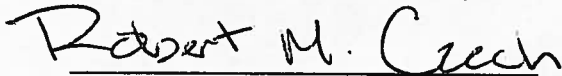
the time of the certification, the appointing authority appointed him to the non-competitive title of Assistant Budget Examiner. Finally, although the Commission is sympathetic to the fiscal constraints faced by the appointing authority, those constraints are no more significant than those faced by any other New Jersey municipal agency. Thus, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver 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 decision.

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 MARCH, 2015



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