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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Planning Aide
(C0094M), Passaic County

Administrative Appeal

CSC Docket No. 2014-3107

ISSUED: **MAR - 9 2015** (WR)

In *In the Matter of Planning Aide (C0094M), Passaic County* (CSC, decided August 1, 2012), the Civil Service Commission (Commission) granted the request of Passaic County (Passaic) for an appointment waiver for the May 9, 2011 certification and ordered that no selection costs would be assessed at that time since there was a possibility that the list could be utilized prior to its expiration.¹ A copy of that decision is attached hereto and incorporated herein. However, Passaic did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.

Agency records reveal that no further certifications were issued from the subject eligible list. Therefore, Passaic was notified that since the eligible list was not utilized by its expiration date, the matter of the costs for the selection process in the amount of \$2,048 would be forwarded to the Commission for a determination. However, no response was received.

CONCLUSION

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

¹ Passaic had indicated that it anticipated utilizing the list prior to its expiration date of May 4, 2014.

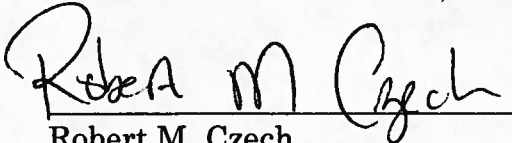
Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. The amount of \$2,048 has been determined to be the cost of the selection process for open-competitive examinations for local government positions. In the instant situation, although the appointing authority had shown a valid reason for not making an appointment from the subject eligible list, it failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. In this regard, Jennifer Gonzalez was still serving provisionally at the time of the certification to Passaic on May 9, 2011. Moreover, only after the certification was issued was Gonzalez appointed to the title of Technical Assistant, Land Use. Finally, the eligible list was not utilized by Passaic. Thus, it is appropriate that Passaic be assessed the costs of the selection process.

ORDER

Therefore, it is ordered that Passaic be assessed 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



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
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Henry Maurer
Director
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Attachment

c: Anthony DeNovo
Kenneth Connolly
Beth Wood

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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Planning Aide
(C0094M), Passaic County

Appointment Waiver Request

CSC Docket No. 2012-1752

ISSUED: **AUG 07, 2012**

(SLD)

Passaic County (Passaic) requests permission not to make an appointment from the May 9, 2011 certification for Planning Aide (C0094M).

The record reveals that Passaic provisionally appointed Jennifer Gonzalez, pending open-competitive examination procedures, effective December 28, 2009, to the title of Planning Aide. As a result of the provisional appointment, an examination was announced with a closing date of February 10, 2010. Fifty-six candidates were admitted to the written examination which was held on April 14, 2011. The resulting eligible list of 32 eligibles, including Gonzalez as the 19th ranked eligible, promulgated on May 5, 2011 and expires on May 4, 2014. Passaic took no action to obviate the need for the examination at the time of the announcement or prior to the processing of the examination. On May 9, 2011, the names of all 32 eligibles were certified from the eligible list. Passaic returned the certification indicating that Gonzalez was no longer serving in the subject title and requesting a waiver of the appointment requirement. Specifically, it indicates that it had requested that this agency perform a pre-qualifying evaluation on Gonzalez for the title of Senior Planner Environmental since it believed that Gonzalez was misclassified in the title of Planning Aide. Official personnel records indicate that the request was dated August 3, 2011. However, although the September 23, 2011 evaluation determined that Gonzalez was performing appropriate "environmental planning" duties, which were considered out-of-title duties for her title of Planning Aide, she did not meet the educational or substitution requirements. Thereafter, Passaic provisionally appointed Gonzalez to the title of Technical Assistant, Land

Use, effective October 10, 2011.¹ Finally, Passaic asserts that it anticipates utilizing the eligible list prior to the May 4, 2014 expiration date.

Passaic'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 reply, Passaic reiterated the procedural history of this matter.

Official personnel records reveal that there are no employees serving provisionally in the subject title with Passaic.

A review of the job specification for Planning Aide indicates that an individual in that title performs routine and noncomplex field and office planning work involved in preparing and making surveys, and collecting and compiling data; and assists in transposing statistical data into visual form. A review of the job specification for Technical Assistant, Land Use, indicates that an individual in that title provides technical assistance to individuals in the completion of applications for land use development; advises applicants as to local and State regulations and law regarding possible uses of land; and maintains and disseminates information to interested parties concerning procedures, policies, and regulations adopted by the local jurisdiction regarding its present and future land use development.

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 Planning Aide was generated as a result of the provisional appointment of Gonzalez. After a complete certification was issued, Passaic indicated that Gonzalez was provisionally appointed, pending open competitive examination procedures to the title of Technical Assistant, Land Use. A review of the job specification reveals that the title of Technical Assistant, Land Use performs significantly different duties than an individual in the title of Planning Aide. Further, Gonzalez was permanently appointed to the title of Technical Assistant, Land Use, effective July 2, 2012.

¹ Personnel records indicate that on June 12, 2012, a certification (OL120798) was issued for the title of Technical Assistant, Land Use, containing only Gonzalez's name. Passaic returned the certification appointing Gonzalez, effective July 2, 2012.

Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

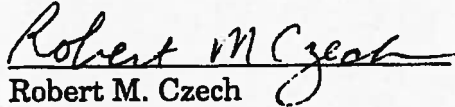
Although the appointing authority's petition for a waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations 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, the Civil Service Commission notes that the list in question will not expire until May 4, 2014. Further, the record reveals that Passaic anticipates being able to utilize the eligible list prior to its expiration date. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided March 22, 2006) (Not appropriate to assess the Department of Corrections for the costs of the selection process since it had indicated its intention to utilize the eligible list prior to its expiration date). Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of May 4, 2014, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided April 11, 2007) (Costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently 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 1ST DAY OF AUGUST, 2012**



**Robert M. Czech
Chairperson
Civil Service Commission**

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Merit System Practices
and Labor Relations
Civil Service Commission
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**c: Anthony J. DeNovo
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Joseph Gambino
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