

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. Agency records indicate that currently there are no individuals in the subject title with the appointing authority. Agency records further indicate that Thomas was appointed to the unclassified position of Confidential Assistant, effective December 24, 2013. Thereafter, he was appointed to the temporary position of General Supervisor of Trades, effective September 6, 2014.

A review of the job specification for General Supervisor of Trades reveals that an individual in that title supervises trades, trade supervisors, and other employees involved in the installation, maintenance, repair, and construction of the physical facilities of a building/structure. A review of the job specification for Construction Inspector reveals that an individual in that title makes inspections of buildings and other types of construction work to ensure compliance with contracts, plans, specifications, and reasonable standards of workmanship.

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 Thomas. However, after a complete certification was issued, the appointing authority requested an appointment waiver due to budgetary constraints and noted that it had recently initiated layoff procedures. A review of the relevant job specifications indicates that an individual in the title of General Supervisor of Trades performs sufficiently different duties than an individual in the title of Construction Inspector. Moreover, there are no employees serving provisionally in the subject title with the appointing authority. Therefore, 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

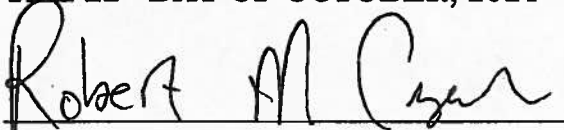
appointment. In this regard, the appointing authority's economic problems, while serious, are no less than those encountered by many, if not most other New Jersey county and municipal governments. Moreover, although the appointing authority claimed that it would be undergoing a layoff, agency records do not indicate that it submitted a layoff plan for either 2013 or 2014. 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 22nd DAY OF OCTOBER, 2014



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