

CSC  
B-12



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Assistant  
Purchasing Agent (M0046R), Sparta  
Township

Appointment Waiver

CSC Docket No. 2014-1711

ISSUED: **DEC 17 2014** (HS)

Sparta Township requests permission not to make an appointment from the May 28, 2013 certification for Assistant Purchasing Agent (M0046R).

The record reveals that the appointing authority provisionally appointed Victoria Forgione, pending open-competitive examination procedures, to the title of Assistant Purchasing Agent, effective August 6, 2012. As a result of this provisional appointment, an examination for the title was announced with a closing date of January 14, 2013. Seven of the applicants, none of whom were veterans, were admitted to the examination, which was processed as a qualifying examination, *i.e.*, applicants who met the announced requirements were given the same score, except that veterans, if any, were ranked first. Forgione applied for the examination but was deemed ineligible. The resulting eligible list of seven names promulgated on May 23, 2013 and expires on May 22, 2016. The appointing authority took no action to obviate the need for the examination. On May 28, 2013, the names of all seven eligibles were certified from the eligible list. Subsequently, the appointing authority returned the certification and requested an appointment waiver. Specifically, the appointing authority asserted that it no longer had any employee serving in the title of Purchasing Agent and that Forgione was no longer serving in the title of Assistant Purchasing Agent.

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 Forgione was provisionally appointed, pending open-competitive examination procedures, to the title of Buyer, effective October 28, 2013. Forgione subsequently received a regular appointment to the title of Buyer, effective July 21, 2014. Agency records also indicate that currently there are no individuals serving in the subject title or the Purchasing Agent title with the appointing authority.

A review of the job specification for Assistant Purchasing Agent reveals that an individual in that title assists the Purchasing Agent by performing supervisory and highly complex tasks involved in the purchasing of supplies. A review of the job specification for Buyer reveals that an individual in that title, under supervision, selects, prepares orders for and arranges for purchase of one or more types of equipment, materials and supplies used by various departments or agencies.

### 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 subject title was generated as a result of the provisional appointment of Forgione. However, after a complete certification was issued, the appointing authority indicated that no appointment would be made and that Forgione was no longer serving in the subject title. In addition, the appointing authority appointed Forgione provisionally, pending open-competitive examination procedures, to the title of Buyer, and Forgione subsequently received a regular appointment to that title. A review of the relevant job specifications indicates that a Buyer performs duties sufficiently different from those of an Assistant Purchasing Agent. In this regard, an Assistant Purchasing Agent assists the Purchasing Agent by performing supervisory and highly complex tasks involved in the purchasing of supplies. However, a Buyer, under supervision, selects, prepares orders for and arranges for purchase of one or more types of equipment, materials and supplies used by various departments or agencies. Moreover, there is no one currently serving in the subject title or the Purchasing Agent title with the appointing authority. Accordingly, based on the foregoing circumstances, sufficient justification exists 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

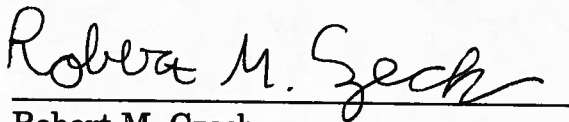
candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although a valid reason for not making an appointment from the subject eligible list exists, the appointing authority has failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. Therefore, 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 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 17<sup>TH</sup> DAY OF DECEMBER, 2014



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