

assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

Agency records indicate that currently there are no individuals in the subject title with the appointing authority.

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 Ridley. 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. Additionally, the appointing authority notes that Ridley was separated from employment, effective January 24, 2014. Moreover, there are no employees serving provisionally in the subject title with the appointing authority. Therefore, there is sufficient justification for an appointment waiver.

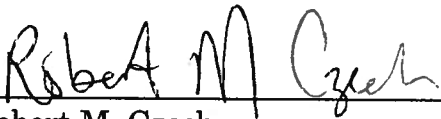
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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. 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. However, a review of agency records reveal that the appointing authority instituted a layoff effective November 19, 2013 which affected one employee. Therefore, it would not be appropriate to assess the appointing authority for the total costs of the selection process in this particular matter. Rather, it is appropriate to assess partial costs in the amount of \$1,024. *See e.g., in the Matter of Housing Assistance Technician (M1259W, City of Orange Housing Authority (MSB, decided January 16, 2008) (Appointment waiver request granted and partial costs assessed as the Housing Authority had undergone a layoff in May and June 2007, affecting eight employees).*

ORDER

Therefore, it is ordered that the request for the waiver of appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed partial costs of the selection process in the amount of \$1,024 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 13th DAY OF AUGUST, 2014**



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Karen O. Dabney
Kenneth Connolly
Joseph Gambino
Beth Wood

