B-31

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jose Arango,
Director, Economic Development
Program (PM0051S), Jersey City

Examination Appeal

CSC Docket No. 2014-3263

ISSUED: SEP 19 2014 (SLK)

Jose Arango appeals the determination of the Division of Selection Services (Selection Services) that, per the substitution clause for education, he did not meet the experience requirements for the promotional examination for Director, Economic Development Program (PM0051S), Jersey City.

The examination at issue was announced with specific requirements that had to be met as of the January 21, 2014 closing date (see attached). The appellant was the only employee who applied for the subject examination and the examination was cancelled due to a lack of qualified applicants.

On Mr. Arango's application, he indicated that he worked provisionally in the title under test from December 2006 to the January 21, 2014 closing date and that he worked for the appointing authority from January 1996 to January 2004 without separating his different job titles and duties. Personnel records indicate that he served provisionally in the subject title from December 2006 to the January 21, 2014 closing date, as an Administrative Analyst from January 2004 to December 2006, as a Management Assistant from May 2002 to January 2004, as a Public Information Officer from February 2001 to May 2002, as an Administrative Analyst from July 1997 to February 2001, and as a Senior Representative Citizens Complaints from April 1996 to July 1997. The appellant also indicated that he possessed an Associate's degree. Selection Services credited him with two years of experience based on his Associate's degree and seven years and two months of experience based on his provisional experience in the subject title, but did not credit

him for his other experience. It commented that his other experience would be considered out-of-title and that a clarification of his titles and job duties for his experience between April 1996 and January 2004 would be needed. Therefore, it determined that Mr. Arango lacked 10 months of experience.

On appeal, Mr. Arango states that he has been provisionally serving as the Director, Economic Development Program since December 2006 and that in his prior service dating back to July 2001, he was the Assistant to the Department Director. Therefore, he presents that he has 13 years of experience. Additionally, he submits abstracts of all the businesses that he assisted locating in Jersey City between 2001 to 2014 and all the projects that he has administered between 2002 and 2014. He also attaches the Civil Service Commission's (Commission) form approving his provisional promotion to the title under test and letters from former Department Directors, Mark Mulney and Barbara Netchert, verifying that he performed the required out-of-title duties from 2001 to 2003. Additionally, he submits a brief synopsis to the current Director of Housing, Economic Development and Commerce, Anthony Cruz, of the daily division activity, various press accounts where his title is referenced, and various brochures of other programs that he has administered.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, it is noted that Selection Services correctly determined that the appellant was not eligible for the subject examination. The appellant was credited with nine years and two months of experience based on his education and his provisional experience in the subject title, and would need an additional 10 months relevant experience to establish eligibility. Any relevant experience gained as an Administrative Analyst, Management Assistant, and Public Information Officer would be out-of-title-work. However, Mr. Mulney has verified that appellant had performed the required out-of-title duties from 2001 to 2003 and the examination was cancelled due to a lack of qualified applicants. Also, Mr. Arango continues to serve provisionally in the title under test. Accordingly, good cause exists to accept the appellant's out of title work experience and his provisional experience after the closing date, for eligibility purposes only, and to admit him to the examination.

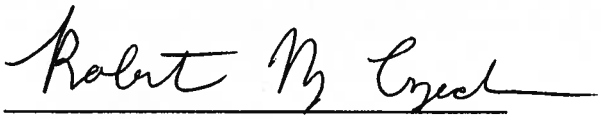
One additional issue warrants comment. *N.J.S.A.* 11A:4-13(b) provides that a provisional appointment shall not exceed 12 months. The appellant has been serving provisionally in the subject title since December 2006. A promotional announcement for Director, Economic Development Program (PM0623M) was announced with a closing date of August 2010. It is unclear as to why this agency waited four years before making the announcement. Two employees, including Mr. Arango, applied for that examination (PM0623M). Both employees were determined to be ineligible and the examination was cancelled due to a lack of qualified candidates. The subject promotional examination was announced with a closing date of January 2014. It is unclear as to why there were extensive delays in announcing a promotional examination given that the appellant was provisionally appointed in December 2006. While this agency should have taken more timely action to announce promotional examinations in this matter, the appointing authority should not have retained Mr. Arango provisionally in the title for such an extensive period of time when this agency determined that he did not satisfy the experience requirements for the title. *See N.J.A.C.* 4A:4-1.5(a)2. Nevertheless, since two promotional announcements did not yield any eligibles and the appointing authority needed to fill the position, the Commission will take no action on that matter at this time. However, in the future, the appointing authority is reminded to comply with *N.J.A.C.* 4A:4-1.5(a)2 when making provisional appointments and if it fails to do so it could be subject to fines up to $10,000.

ORDER

Therefore, it is ordered that the appeal be granted, the examination cancellation be rescinded, and the appellant's application be processed for prospective employment opportunities only.

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 17th DAY OF SEPTEMBER, 2014



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Attachment

c: Jose Arango
Robert Kakoleski
Dan Hill
Joseph Gambino

NEW JERSEY CIVIL SERVICE COMMISSION
COUNTY AND MUNICIPAL GOVERNMENT SERVICES

PROMOTIONAL ANNOUNCEMENT

New Jersey Civil Service Commission

$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: **PM0051S**
WEIGHT CODE: *****
TITLE: **DIRECTOR ECONOMIC DEVELOPMENT PROGRAM**
SALARY: **$17,500.00 - $88,173.00**
ISSUE DATE: **January 01, 2014**
CLOSING DATE: **January 21, 2014**
TITLE CODE: **01573/ AWRJR2**
JURISDICTION CODE: **N09060007**
JURISDICTION: **JERSEY CITY**
DEPARTMENT: **HOUSING ECONOMIC DEVELOPMENT COMMER**

RETURN COMPLETED APPLICATIONS TO: **ONLY ON LINE APPLICATIONS WILL BE ACCEPTED FOR THIS ANNOUNCEMENT**

Open to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements listed below:

Education: Graduation from an accredited college or university with a Bachelor's degree. You must indicate either possession of a degree or total number of college credits completed to date on your application. (Foreign degrees/ transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

Applicants who do not possess the required education may substitute, in addition to the required experience indicated below, applicable experience on a year for year basis, with thirty (30) semester hour credits being equal to one (1) year of experience.

Experience: Six (6) years of experience in the administration or organization of small business enterprises of various types.

License: Appointees will be required to possess a driver's license valid in New Jersey only if the operation of a vehicle rather than employee mobility, is necessary to perform the essential duties of the position. The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate, rests with the Appointing Authority.

NOTE: As of December 1, 2013, applications must be completed and submitted by 4:00 pm on the closing date.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL. Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c.26, **Veterans pay a reduced application fee of $15.00** if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES. (i.e. Police, Fire, Corrections and Sheriff).
6. **SAVE ON POSTAGE! GO PAPERLESS! RECEIVE IMMEDIATE CONFIRMATION THAT YOUR APPLICATION HAS BEEN RECEIVED!** You can now file an application for this examination on-line. Visit the Civil Service Commission website at http://info.csc.state.nj.us/epoa. Select the promotional announcement and click on the link, "Click Here to file Online" at the top of the announcement. **You can now complete and submit your application and payment on-line to the Civil Service Commission and you will receive an immediate receipt confirmation!**

DPF-256A * Revised 03/09