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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Accountant (M0041U),
Bayonne

CSC Docket No. 2017-1219

Appointment Waiver

ISSUED: DEC 23 2016 (JET)

Bayonne requests permission not to make an appointment from the May 12, 2016 certification for Accountant (M0041U).

The record reveals that the appointing authority provisionally appointed Daishawn Kemp, pending open competitive examination procedures, to the subject title, effective July 21, 2015. The examination was announced with a closing date of January 28, 2016. The resulting list of 11 eligibles promulgated on May 5, 2016 and will expire on May 4, 2019. Kemp's name did not appear on the certification. It is noted that Kemp's provisional appointment was discontinued effective July 29, 2016. The appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. A certification was issued on May 12, 2016 (OL160602) which contained the names of the 11 eligibles. The appointing authority returned the certification requesting a waiver of the appointment requirements as it is experiencing a hiring freeze that restricts it from hiring additional personnel due to limited economic resources.

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. No further arguments were received.

A review of agency records reveals that there are currently no employees serving provisionally, pending open competitive examination procedures, in the subject title with Bayonne.

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 due to Bayonne's provisional appointment of Daishawn Kemp to the subject title. However, after a complete certification was issued, the appointing authority requested cancellation of the certification due to a hiring freeze as a result of its limited economic resources. Consequently, since there is no provisional serving in the title at issue, there is sufficient justification for an appointment waiver.

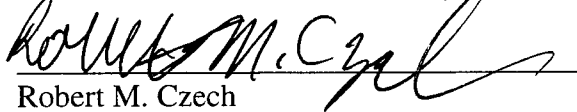
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and 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. Although Bayonne is experiencing a hiring freeze, 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. 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 21ST DAY OF DECEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Joseph DeMarco
Kelly Glenn
Records Center
Beth Wood