

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503

Boston, MA 02108

(617) 727-2293

INVESTIGATION RE:

CITY OF QUINCY LABOR SERVICE APPOINTMENTS

I-12-241

**PROCEDURAL ORDER & NOTICE OF STATUS CONFERENCE**

On February 22<sup>nd</sup> and May 6<sup>th</sup> 2012, James McDonough and Patrick McNamara, who are currently employed as labor service employees for the City of Quincy (City), filed bypass appeals with the Civil Service Commission (Commission), contesting their non-selection to the labor service position of Park Maintenance Person, an entry level position.

Mr. McDonough's appeal (G2-12-56) is being dismissed based on his failure to prosecute his appeal. Mr. McNamara's appeal (G2-12-84) is being dismissed based on his lack of standing to contest an original appointment to a labor service position.

As part of these appeals, however, the City, at the Commission's request, produced records showing that the individual appointed to the labor service position was ranked 234<sup>th</sup> on the labor service register used to make this appointment.

So called "labor service" positions are those jobs for which applicants do not have to take a competitive examination, and appointments are made on the basis of priority of registration. (See G.L. c. 31, §§ 1, 28-29)

G.L. c. 31, § 28, which pertains to labor service appointments, states in relevant part:

"... the names of persons who apply for employment in the labor service ... of the cities and towns shall be registered and placed, in the order of the dates on which they file their applications, on the registers for the titles for which they apply and qualify. The name of any such person shall remain on such register for not more than five years ... The names of veterans who apply for employment in the labor service shall be placed ... ahead of the names of all other persons."

Section 19 of the Personnel Administration Rules (PAR.19), promulgated by HRD and approved by the Commission, contains the rules that apply to all labor service employees in cities and towns covered by the civil service law.

PAR.19(2), which pertains to labor service appointments, states in relevant part:

“When positions are to be filled on a permanent or temporary basis in the labor service, the appointing authority shall make requisition to the administrator<sup>1</sup> ... shall establish and maintain rosters for each departmental unit and by appropriate class containing the names, position titles and effective dates of employment of persons appointed to ... labor service positions ... in the service of a ... municipality after certification from labor service registers ...”

PAR.19(2) also states that “selection and original appointments shall be made as provided in PAR.09.” PAR.09 contains the so-called “2n + 1” formula which states that appointing authorities may appoint only from among the first 2n+1 persons named in the “certification” willing to accept appointment, where the number of appointments is “n”. Applied to appointments in the labor service, appointing authorities can only appoint from among the first 2n+1 [qualified] persons on the labor service register.

Notwithstanding the requirement that a labor service appointment must be made from among the first three qualified applicants on the labor service register, the City was unable to explain how an individual ranked 234<sup>th</sup> on the register was appointed.

To ensure that the City complied with the civil service law and rules regarding this appointment and that it is complying with the law and rules regarding labor service appointments in general, the Commission, pursuant to G.L. c. 31, § 2(a), is initiating an investigation in order to conduct a preliminary inquiry regarding the City’s hiring practices.

A status conference regarding this matter will be held at the offices of the Commission on Monday, November 5, 2012 at 10:00 A.M. Prior to the status conference, the City shall provide the Commission with the following information:

1. The name of the Labor Service Director for the City of Quincy.
2. Copies of all labor service registers maintained by the City of Quincy.
3. A list of all individuals appointed to labor service positions in the City of Quincy since January 1, 2011, indicating the labor service register from which they were appointed, and their rank on the respective roster.
4. A written summary, prepared by the Labor Service Director, which outlines the process used by the City of Quincy when making labor service appointments.

Civil Service Commission

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Christopher C. Bowman  
Chairman

September 20, 2012

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<sup>1</sup> The City of Quincy, along with all other civil service cities and town in Massachusetts, with the exception of Boston, has been delegated to perform the duties and responsibilities of the Administrator (HRD) in regard to labor service appointment. PAR.20 requires each of these cities and towns to designate a Labor Service Director to perform these functions.

Notice:  
Deirdre Hall, Esq. (for City of Quincy)  
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