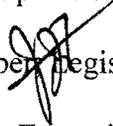


MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber  Legislative Analyst

SUBJECT: **Worksession:** Executive's Recommended FY13 Operating Budget
Ethics Commission

Council Staff Recommendations:

- **Approve the Ethics Commission budget as submitted.**
- **Meet with the Ethics Commission, Inspector General and Executive staff this summer to evaluate and discuss the Inspector General report – *Review of Certain Montgomery County Ethics Activities.***

Those expected for this worksession:

Robert Cobb, Executive Director, Ethics Commission
Phil Weeda, Budget Analyst, OMB

The Ethics Commission Budget is on ©1.

OVERVIEW

The County Executive's recommended budget for the Ethics Commission for FY13 is \$252,586, an increase of \$61,156 or 31.9% from FY12. Personnel costs comprise 75.7% of the budget

A major change that took place in FY12 was the shift of the Executive Director position to the Staff Director/Chief Counsel position. For FY13 the major change is funding of \$54,900 for web-based lobbying registration applications.

(in \$000's)	FY11 Actual	FY12 Approved	FY13 CE Recommended	% Change FY12-FY13
Expenditures:				
General Fund pers & op	250,748	191,430	252,586	31.9%
	-	-	-	
Positions:				
Full-time	2	2	2	0.0%
Part-time	-	-	-	
TOTAL Positions	2	2	2	0.0%
FTEs	2.0	2.0	2.0	0.0%

Ethics Commission Budget Adjustments	
Changes with service impacts	
\$54,900	Enhance Web-based Lobbying Registration Application
Adjustments with no service impacts	
\$2,698	Increase Cost: Retirement Adjustment
\$2,153	Increase Cost: Lump Sum Wage Adjustment
\$1,675	Increase Cost: Group Insurance Adjustment
-\$40	Decrease Cost: Printing and Mail Adjustment
-\$230	Shift: Help Desk – to Desktop Computer Modernization NDA

Ethics Commission Program

The Ethics Commission administers the County's Code of Ethics by encouraging and enforcing compliance and ensuring the ethical conduct of employees of the Executive Branch, County Council, selected Boards and Commissions, the Revenue Authority, Housing Opportunities Commission, Fire Corporations, and Rescue Squads. The Commission also serves in an advisory capacity to the Washington Suburban Transit Commission. The compliance goal is achieved through the following activities:

- ❖ **Financial Disclosure** – The Ethics law requires specific public officials and employees to disclose financial information to avoid potential conflicts of interest. The Commission prepares and distributes financial disclosure forms and maintains reports filed by employees and administers the electronic filing system of reporting.
- ❖ **Outside Employment** – Employees and officials are required to obtain approval from the Commission to be engaged in outside employment. The Commission prepares and makes available outside employment request forms and administers a process pursuant to which agency approvals are obtained.
- ❖ **Lobbying Registration** – Lobbyists are required to register and report lobbying activities involving the County government when income or expenditures exceed \$500. Annual registration fees are processed by the Commission and information is made public as required by the Public Ethics Law.

- ❖ **Customer Service** – Staff investigates complaints and responds to questions from employees, officials and the general public requesting assistance on filing disclosure statements, registering lobbyists, filing complaints, requesting opinions or waivers and seeking advice about ethics issues.
- ❖ **Education** – The Ethics Commission conducts public education programs regarding the Ethics law.
- ❖ **Administration** – The staff provides administrative support to the Commission which consists of five volunteer members. Staff coordinates with the offices of the County Attorney and Inspector General.

The Commission and its staff will continue the following efforts in FY13:

- Review all Commission programs, policies, and practices in order to assure compliance with statutory mandates and establish greater efficiency in management of operations.
- Pursue efforts to computerize and streamline the processes for employees to request outside employment and for lobbyists to be able to register and report online.
- Review Public Ethics Law with a view toward recommending such changes as are required to bring the law into compliance with State ethics law mandates.

Issues

Lobbyist Registration: Measures to track all incoming lobbying fees were instituted. A redesigned fillable PDF lobbying registration form was created and posted on the Ethics Commission website along with new instructions. Working with the Department of Technology Services, the Ethics Commission expects that a long-term objective of making this form fillable online will be achieved in 2012. The lobbying semi-annual report is also intended to be made into a fillable form that can be filed online. If these objectives are met, it is anticipated that the Commission will be able to meet statutory objectives of data collection and publication in a substantially more efficient manner. Funding for this initiative has been added to the budget.

Lobbyist Filing Fee: Last year the Council voted to increase the lobbyist filing fee to \$250 from \$125. A review of County regulations show that this has not been done. See ©5

Outside Employment: The Commission is pursuing plans for electronic filing of outside employment. This is complicated due to the use of different forms by police personnel and will take some additional effort to create the correct online application system.

Electronic Filing and Public Access: SB 920 (bill has not been signed) requires ethics statements of State Legislators to be made available to the general public on the Internet. It also establishes a joint House and Senate workgroup to perform a comprehensive and coordinated review of the disclosure requirements of the Maryland Public Ethics Law as it applies to State and local governments. In part, the workgroup will look at methods of providing greater public access to public ethics disclosures.

Transfer of Financial Disclosure Filing Process: The CAO and Ethics Commission agreed to transfer responsibility for the Financial Disclosure System from the Ethics Commission to the Office of Human Resources. A recruitment is underway for a Program Specialist I position to handle this new responsibility in OHR. This transfer will be implemented in FY12 and should better align operational responsibility with functional responsibilities and result in accountability for system performance. This move should also address some of the issues in the Inspector General’s findings.

Inspector General Report: The Inspector General completed a report on April 9 entitled “*Review of Certain Montgomery County Ethics Activities*”. The Inspector General found widespread noncompliance with financial disclosure filing deadlines, due to poor communications, poor coordination among County departments and systems, and enforcement shortcomings. Also, there is no overarching entity within Montgomery County Government that has the authority, accountability, and control to ensure that the financial disclosure reporting process operates in accordance with the Public Ethics Law. A summary of the Inspector General’s findings and recommendations is at ©4. The report can be found on the County website at http://www.montgomerycountymd.gov/content/Inspectorg/pdf/igactivity/mcec_final_report_apr_2012.pdf.

Council Staff Recommendations

- **Staff recommends approval of the Ethics Commission budget as submitted for \$252,586. Changes to staffing or funding should not be considered until after some experience with the transfer of the Financial Disclosure Filing Process to OHR and after GO Committee review of the IG report.**
- **Staff recommends the GO Committee meet with the Ethics Commission, Inspector General and Executive staff this summer to review and discuss the Inspector General’s report and recommendations.**

Attachments:	Ethics Commission Budget	©1
	Summary of Inspector General Findings and Recommendations	©4
	County Regulation 19A-23 – Lobbyist Registration Fee	©5
	Ethics Commission Annual Report	©6

Ethics Commission

MISSION STATEMENT

The Ethics Commission exercises authorities granted to it under the Public Ethics Law to promote the public's trust of County government and to ensure the impartiality of County employees, including elected officials, in the execution of their responsibilities

BUDGET OVERVIEW

The total recommended FY13 Operating Budget for the Ethics Commission is \$252,586, an increase of \$61,156 or 31.9 percent from the FY12 Approved Budget of \$191,430. Personnel Costs comprise 75.7 percent of the budget for two full-time positions for two FTEs. Operating Expenses account for the remaining 24.3 percent of the FY13 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ❖ ***A Responsive, Accountable County Government***

ACCOMPLISHMENTS AND INITIATIVES

- ❖ ***In collaboration with the Chief Administrative Officer, the Commission developed and obtained all parties' approval for permanent transfer of the responsibility for the Financial Disclosure System from the Ethics Commission to the CAO, who is reassigning responsibilities as appropriate. This transfer will be implemented Spring/Summer of 2012. This transfer will better align operational responsibility with functional responsibilities and result in accountability for system performance resting with those with the power and authority to resolve issues.***
- ❖ ***The Executive Director Position was abolished and a new upgraded Chief Counsel/Staff Director position was established and filled.***
- ❖ ***The Commission staff is reviewing all of the Commission's programs, policies, and practices in order to assure compliance with statutory mandates and establish greater efficiency in management of operations.***
- ❖ ***The Commission staff is pursuing efforts to computerize and streamline the processes for employees to request outside employment and for lobbyists to be able to register and report online.***
- ❖ ***The Commission is engaged in a review of the Public Ethics Law with a view toward recommending such changes to the law as are required to bring the law into compliance with State ethics law mandates.***

PROGRAM CONTACTS

Contact Robert Cobb of the Ethics Commission at 240-777-6674 or Phil Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Ethics Program Compliance

Financial Disclosure: The Public Ethics Law requires filing of financial disclosure reports by certain County employees. The Ethics Commission prepares and distributes financial disclosure forms and maintains reports filed by employees; it administers the electronic filing system for reporting and coordinates with the Office of Human Resources and all County agencies as regards to the status of filers, and resolves all anomalous circumstances and questions from filers that routinely arise associated with the filing of financial disclosure reports and the administration of the system designed for that purpose.

Outside Employment: The Public Ethics Law requires that County employees obtain approval from the Ethics Commission prior to engaging in any employment other than County employment. The Ethics Commission prepares and makes available Outside Employment request forms and administers a process pursuant to which agency approvals are obtained. The Ethics Commission staff prepares all requests for consideration by the Ethics Commission, to include obtaining additional information from requestors and County agencies and conducting preliminary legal analysis of requests. The Ethics Commission approves requests, as appropriate,

setting conditions on approval as necessary to ensure compliance with ethics requirements, and staff notifies requestors by letter of the disposition of requests. The Ethics Commission publishes and updates approved Outside Employment information required to be made public by the Public Ethics Law.

Lobbying: The Public Ethics Law requires certain persons who spend or receive over \$500 to communicate with County officials and employees to register as lobbyists and to file semi-annual activity reports with the Ethics Commission. Annual registration fees are required and are paid to the Ethics Commission and processed and deposited in the General Fund. The Ethics Commission publishes and updates information required to be made public by the Public Ethics Law.

Complaints, Investigations and Hearings: Pursuant to the Public Ethics Laws, the Ethics Commission receives complaints and, as appropriate: conducts investigations, conducts hearings, makes findings, and imposes sanctions and penalties if warranted.

Advisory Opinions, Waivers, Advice: In accordance with the Public Ethics Law, the Ethics Commission answers inquiries on the application of the Ethics law, publishes opinions, and grants waivers of Ethics Law requirements, as appropriate.

Education: The Ethics Commission conducts public education and other information programs regarding the Ethics Law.

Legislative and Regulatory: The Ethics Commission recommends and prepares new ethics legislation and regulations.

Coordination and Outreach: The Staff of the Ethics Commission coordinates with the County Attorney's Office and the Office of the Inspector General as necessary on legal and investigative matters; the Staff also serves as the principal public resource on the County's ethics laws, to include managing a website that reflects Ethics Commission programs, activities, and publications such as annual reports, approvals of outside employment requests, lobbying data, and waivers and opinions.

Administration: The Staff of the Ethics Commission is responsible for assuring that Ethics Commission meetings are run in accordance with the Open Meetings Act and other applicable law and the Ethics Commission members are informed and advised as to all material matters under their jurisdiction; Ethics Commission staff are also responsible for budget, procurement, human resources, and resource management for the operation of the office in accordance with Montgomery County policies, and attend required training in these and other office management areas.

BUDGET SUMMARY

	Actual FY11	Budget FY12	Estimated FY12	Recommended FY13	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	157,559	154,010	151,708	156,010	1.3%
Employee Benefits	74,099	30,770	21,026	35,296	14.7%
County General Fund Personnel Costs	231,658	184,780	172,734	191,306	3.5%
Operating Expenses	19,090	6,650	20,611	61,280	821.5%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	250,748	191,430	193,345	252,586	31.9%
PERSONNEL					
Full-Time	2	2	2	2	—
Part-Time	0	0	0	0	—
FTEs	2.00	2.00	2.00	2.00	—
REVENUES					
Miscellaneous Revenues	8,572	0	0	0	—
Other Charges/Fees	0	25,000	15,000	15,000	-40.0%
County General Fund Revenues	8,572	25,000	15,000	15,000	-40.0%

FY13 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY12 ORIGINAL APPROPRIATION	191,430	2.00
Changes (with service impacts)		
Enhance: Web-based Lobbying Registration Application	54,900	0.00
Other Adjustments (with no service impacts)		
Increase Cost: Retirement Adjustment	2,698	0.00
Increase Cost: Lump Sum Wage Adjustment	2,153	0.00
Increase Cost: Group Insurance Adjustment	1,675	0.00
Decrease Cost: Printing and Mail Adjustment	-40	0.00
Shift: Help Desk - Desk Side Support to the Desktop Computer Modernization NDA	-230	0.00
FY13 RECOMMENDED:	252,586	2.00

FUTURE FISCAL IMPACTS

Title	CE REC.					
	FY13	FY14	FY15	(5000's)		
	FY16	FY17	FY18			
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY13 Recommended	253	253	253	253	253	253
No inflation or compensation change is included in outyear projections.						
Elimination of One-Time Lump Sum Wage Adjustment	0	-2	-2	-2	-2	-2
This represents the elimination of the one-time lump sum wage increases paid in FY13.						
Subtotal Expenditures	253	250	250	250	250	250

REPORT IN BRIEF

Review of Certain Montgomery County Ethics Activities

APRIL 9, 2012

BACKGROUND

Montgomery County has enacted a Public Ethics Law applicable to its elected officials, public employees, and members of Boards, Commissions, and Agencies. This Law also sets criteria for private individuals who seek to influence the actions of the County.

WHY WE DID THIS REVIEW

The Inspector General, Deputy Inspector General, and Assistant Inspector General each had difficulty accessing the County's Financial Disclosure System to complete an initial financial disclosure, and became concerned following a July 15, 2011 meeting, in which the newly appointed Ethics Commission Staff Director/Chief Counsel acknowledged problems with the process, and suggested that the Office of Inspector General conduct an independent review.

The objectives of our review were to determine whether a.) required procedures are documented and in compliance with State of Maryland and Montgomery County Codes, and b.) implemented procedures and internal controls are consistent with required procedures.

WHAT WE FOUND

We found widespread noncompliance with financial disclosure filing deadlines, due to poor communications, poor coordination among County departments and systems, and enforcement shortcomings.

86% of the initial financial disclosure reports we tested were not submitted within the statutory deadline of 15 days after commencing service with the County. 29% of all 2010 annual financial disclosure reports were submitted after the extended deadline of May 15, 2011, and 4% had not been submitted as of January 17, 2012 - the date of our final testing. 30% of the final disclosure reports we tested were filed after the last day of employment - the statutory deadline.

There is no overarching entity within Montgomery County Government that has the authority, accountability, and control to ensure that the financial disclosure reporting process operates in accordance with the Public Ethics Law. For example, hiring departments must submit timely notices of employment changes, department managers must ensure their staff submit timely disclosures, and other departments must correct system interface errors.

We found that the financial disclosure system (FDS) does not provide adequate follow-up notifications to filers and reviewing managers.

We observed that a significant number of initial and final financial disclosure reporting delinquencies resulted from filers' inability to access the FDS, precluding them from timely, on-line disclosure submission.

We found that the County does not enforce the Public Ethics Law's mandatory and discretionary penalties for delinquent filers and non-filers.

We found that the Ethics Commission office has not put its many manual procedures in writing, which is an operating risk, given the office has only two staff members.

WHAT WE RECOMMEND

To effectively implement the Public Ethics Law, the causes that contribute to delay in completing Financial Disclosure forms must be addressed. We recommend that the County Executive and Council work with the Ethics Commission Staff Director/Chief Counsel to ensure authority, accountability, and control for the logistical operation and enforcement of the financial disclosure filing process is clearly designated. Steps should be undertaken to modify the design of the ERP/FDS interface that routinely transfers data from the County's human resources systems to its financial disclosure system in order to eliminate any manual re-entry of data. The process to identify, approve, and distribute notifications to individuals subject to annual financial disclosure reporting should be modified to eliminate operational delays that now exist. The assignment of system access privileges should be modified to eliminate delays for initial filers to gain access to the disclosure system. An alternative, manual financial disclosure process should be developed as a fail-safe back up to the current on-line system.

The Ethics Commission should reduce manual processing workloads by streamlining procedures, and further automating its financial disclosure, lobbyist registration, and outside employment systems.

**▣ SEC. 19A-23 HOW AND WHEN TO REGISTER AS A LOBBYIST —
REGULATIONS**

▣ COMCOR 19A.23.01 Lobbyist Registration Fee

▣ 19A.23.01.01. Annual Lobbyist Registration Fee Established

Pursuant to section 19A-23(e) of the Montgomery County Code (2004), as amended, each registered lobbyist must pay the Ethics Commission an annual registration fee in the amount of \$125.



MONTGOMERY COUNTY ETHICS COMMISSION

Nina Weisbroth
Chair

Stuart D. Rick
Vice Chair

Ethics Commission Annual Report for Calendar Year 2011

Dear Fellow Citizens:

Section 19A-6(f) of the Montgomery County Public Ethics Law requires the Ethics Commission to publish an annual report. That report is to summarize the actions the Ethics Commission has taken during the preceding calendar year and describe each waiver it approved and advisory opinion it issued during the year.

The mission of the Ethics Commission is to promote the public's trust of County government through the independent administration, including enforcement, of laws designed to ensure the impartiality of County employees, including elected officials, in the execution of their responsibilities. It does this through the administration of three programs -- financial disclosure, lobbying disclosure, and outside employment approval -- and through myriad other activities.

The Commission has five members when fully complemented. Currently the Commission has four members. They, along with the respective dates of their terms' expiration, are:

Nina Weisbroth, Chair	10/2013
Stuart D. Rick, Vice-Chair	10/2013
Kenita V. Barrow	10/2011*
Antar C. Johnson	10/2011**

*Currently in holdover status until April 30, 2011, may be reappointed.

**Currently in holdover status until April 30, 2011, may not be reappointed without waiver under Code Section 2-148.

In June of 2011, Mr. Gilles Burger resigned from the Commission because he moved away from the County, making him ineligible for membership.

The Ethics Commission has two permanent staff members. Robert Cobb is the Chief Counsel/Staff Director, and Sheila Laryea is a Program Specialist.

Montgomery County Ethics Commission

100 Maryland Avenue, Room 204, Rockville, MD 20850
OFFICE 240-777-6670, FAX 240-777-6672

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At the outset, this year was a watershed year for the Ethics Commission. First, it marked the end of the tenure of Barbara McNally who retired as the Executive Director of the Ethics Commission after twenty-eight years of service to the Ethics Commission. Barbara vigilantly advocated for and promoted ethical conduct within County Government and tirelessly sought to protect and preserve the integrity and strength of the Ethics Commission as a County institution.

In 2010 the Public Ethics Law was amended so that Barbara's position, Executive Director, would be abolished and replaced with a Chief Counsel/Staff Director hired directly by the Commission. Upon Barbara's retirement, the Ethics Commission selected and hired a Chief Counsel/Staff Director. The intent of hiring a lawyer for the Commission was to assure the independence of advice rendered to the Commission.

The Commission met in regular Public Meetings ten times during 2011. It also conducted three Administrative Meetings following its Public Meetings. (Pursuant to new processes established this fall, the Ethics Commission will be holding administrative meetings following its regular monthly meetings to consider matters that are non-public.) The Commission also met administratively to interview candidates for the newly created Chief Counsel/Staff Director position.

Outside Employment Approvals and Lobbying Disclosures

Prior annual reports have published lists of outside employment approvals and lobbying registrations. Because similar information is already published on the Ethics Commission website, the practice of including these in the annual report is discontinued.

Major Objectives for 2012

The Commission is pursuing a path forward to substantially improve its effectiveness. This path involves two primary elements: a) transferring the management of the Financial Disclosure System to those with the power and authority to ensure its successful implementation; and b) establishing electronic filing for lobbying registration, lobbying activity reporting, and for other employment requests. Proposals have been made regarding both of these possibilities.

As systems are put in place to manage information requirements, Commission staff will be able to focus more on having the Commission fulfill the function in County government that it should: promoting compliance (through training and education, for example) with Public Ethics Law requirements and proactively taking steps to improve the ethics laws and regulations to best serve the taxpayers of Montgomery County.

Status of Programs and Operations

This annual report summarizes the work of the Ethics Commission in each of the following areas:

Montgomery County Ethics Commission

100 Maryland Avenue, Room 204, Rockville, MD 20850
OFFICE 240-777-6670, FAX 240-777-6672

1. **Financial Disclosure**
2. **Outside Employment**
3. **Lobbying**
4. **Complaints, Investigations and Hearings**
5. **Advisory Opinions, Waivers, Advice**
6. **Education**
7. **Legislative and Regulatory**
8. **Coordination and Outreach**
9. **Administration**

1. Financial Disclosure: The Public Ethics Law requires filing of financial disclosure reports by certain County employees. The Ethics Commission prepares and distributes financial disclosure forms and maintains reports filed by employees; it currently administers the electronic filing system for reporting and coordinates with the Office of Human Resources and all County agencies as regards the status of filers, and resolves all anomalous circumstances and questions that routinely arise associated with the filing of financial disclosure reports and the administration of the system designed for that purpose.

The Public Ethics Law promotes the public's confidence in the integrity of County employees by requiring certain employees, including elected officials, to file financial disclosure reports that are required to be made publicly available. The ethics law also requires certain other employees to file confidential disclosure reports. The reports detail financial holding and relationships so that conflicts of interest between an-employee's county duties and the employee's personal activities and interests can be identified and prevented. The ethics law requires filings of financial disclosure report when individuals are first appointed to a filing position, annually thereafter, and when terminating from a filing position.

There are about 1800 filers of financial disclosure forms by public employees annually. The program is administered by the Ethics Commission staff through an electronic filing system. Successful program administration is dependent on the accuracy of the database of employees and their status as filers. It is also dependent on employees who file the forms and on County senior management who are the designated reviewers of forms. Lastly, it is dependent on County managers to follow-up with employees who have not filed and to obtain final reports from employees who are terminating from filing positions. Members of certain County boards, commissions, and committees, who are considered "public employees" for purposes of the public ethics law, are also required to file reports. As these persons are not normally tracked in the County's personnel system, a separate tracking system has been established for these persons.

The financial disclosure program spans both the executive and legislative branches, and covers a couple of organizations which are created by statute but are not part of the government. Ultimate responsibility for the database of filers has been the Ethics Commission's, although employee status is generically a human resources function. And responsibility for the notification of

employees and reviewers of their respective obligations has also fallen primarily on the Ethics Commission, although department supervisors and management are positioned to encourage and secure compliance with filing requirements. The Commission has recommended to the Chief Administrative Officer that roles and responsibilities associated with the management of the financial disclosure system be reassigned. The Chief Administrative Officer has agreed to this recommendation, and it is expected that as a result, roles and responsibilities will be more closely aligned with authority to execute functional roles. This transition will take place in 2012 and will relieve the Ethics Commission from operational responsibility of the financial disclosure system.

At the request of Ethics Commission staff, the Montgomery County Office of Inspector General has reviewed the financial disclosure system and is currently completing a report of the review it conducted. The Ethics Commission looks forward to receiving that report.

2. Outside Employment: The Public Ethics Law requires that County employees obtain approval from the Ethics Commission prior to engaging in any employment other than County employment. The Ethics Commission prepares and makes available Outside Employment request forms and administers a process pursuant to which agency approvals are obtained. The Ethics Commission staff prepares all requests for consideration by the Ethics Commission, to include obtaining additional information from requestors and County agencies and conducting preliminary legal analysis of requests. The Ethics Commission approves requests, as appropriate, setting conditions on approval as necessary to ensure compliance with ethics requirements, and staff notifies requestors by letter of the disposition of requests. The Ethics Commission publishes approved Outside Employment information required to be made publicly available by the Public Ethics Law.

The Commission processed about 1200 new requests for outside employment approval in FY 2011. In addition, the Commission received hundreds of notices of renewals for previously approved submissions whose preset approval durations expired.

Pursuant to Ethics Commission practice, EC staff inputs data from the submitted requests onto a master template that provides a vehicle for Ethics Commission review of submissions. The manual input of data is extremely detailed and time consuming.

About 900 of the new requests were attributable to security related outside employment requests from Montgomery County Police Officers. These requests have been made on a form that is unique to the police department.

During 2011, plans were made to pursue electronic filing of outside employment requests in 2012. This has been an objective of the Ethics Commission for several years. In connection with this effort, the form for Outside Employment requests has been revised. One complicating challenge to this project is the differing forms that have been generated as regards outside

employment requests for employees generally, and the form that has been generated specifically as regards police requests. The police form requires substantially greater and different information, thereby more than doubling the scope of the project to create an online application system.

3. Lobbying: The Public Ethics Law requires certain persons who spend or receive over \$500 to communicate with County officials and employees to register as lobbyists and to file semi-annual activity reports with the Ethics Commission. Annual registration fees are required and are paid to the Ethics Commission and processed and deposited in the General Fund. The Ethics Commission publishes and updates information required to be made public by the Public Ethics Law. A list of the 120 registered lobbyists in the County during 2011 can be found at: <http://www.montgomerycountymd.gov/content/ethics/lobby/docs/lobbyinglist2011.doc>.

During the year, lobbying processes were reviewed. First, measures to track all incoming lobbying fees were instituted. A redesigned fillable PDF lobbying registration form was created and posted on the Ethics Commission website along with new instructions. Working with the Department of Technology Services, the Ethics Commission expects that a long term objective of making this form fillable on-line will be achieved in 2012. The lobbying semi-annual report is also intended to be made into a fillable form that can be filed online. If these objectives are met, it is anticipated that the Ethics Commission will be able to meet statutory objectives of data collection and publication in a substantially more efficient manner than currently exists.

4. Complaints, Investigations and Hearings: Pursuant to the Public Ethics Laws, the Ethics Commission receives complaints and, as appropriate: conducts investigations, conducts hearings, makes findings, and imposes sanctions and penalties.

During 2011, no new complaints of ethics violations were received; one matter that had resulted in an Ethics Commission hearing in October 2010 was resolved through the issuance of an memorandum and order in March 2011 finding no ethics violation; one complaint and related investigation that carried over from the prior year was dismissed as there was no evidence of an ethics violation; and one matter that was pending in the prior year resulted in a public hearing in December 2011. There were no other pending complaints or investigations or hearings scheduled at the end of 2011.

5. Advisory Opinions, Waivers, Advice: In accordance with the Public Ethics Law, the Ethics Commission answers inquiries on the application of the Ethics law, publishes opinions, and grants waivers of Ethics Law requirements, as appropriate. The Commission issued two opinions during calendar year 2011 which are published at http://www.montgomerycountymd.gov/Apps/Ethics/aw/ST_list.asp and granted no waivers.

Opinion 11-04-002 concerned Section 19A-13(a) of the ethics law providing that a former employee "must not work on or otherwise assist any party, other than a County agency, in a case, contract, or other specific matter for 10 years after the last date the employee significantly

participated in the matter as a public employee.” In this matter, a former employee who significantly participated in a series of lease agreements with a developer that were signed in 2002, but imposed continuing obligations, asked whether he can work for that developer. The Commission concluded that the former employee must not work on or assist the developer with the implementation of any obligation flowing from the scope of work of the agreements without first obtaining a waiver from the Commission.

Opinion 11-10-005 concerned whether certain charitable activities could be conducted in a manner consistent with the prestige of office and gift solicitation requirements of Sections 19A-14(a) and 19A-16(a), respectively, of the Public Ethics Law. The activity involved County police officers appearing at the activity as “local law enforcement.” The activity would be conducted off-duty, out of uniform, and no reference was to be made to Montgomery County. Under the circumstances described to the Ethics Commission, the Commission found that the activity would not violate either the gift solicitation provisions of Section 19A-16(a) or the prestige of office provision at Section 19A-14(a).

6. Education: The Ethics Commission conducts public education and other information programs regarding the Ethics Law. With the exception of Ethics Commission staff providing instruction on filling out and review of financial disclosure forms, ethics education has been handled primarily by the County Attorney’s Office. In 2012, Ethics Commission staff plans to increase its role in education of County employees regarding their obligations under the Public Ethics Law.

7. Legislative and Regulatory: The Ethics Commission recommends and prepares new ethics legislation and regulations. Pursuant to new State requirements (Senate Bill 315 (Chapter 277 of the Acts of 2010),) the Ethics Commission is required to certify on October 1 of each year that Montgomery County’s Ethics Law are equivalent to or more restrictive than State Ethics Law as regards elected officials. This requirement was met in 2011 through an alternative procedure permitted by the State Ethics Commission pursuant to which the Ethics Commission explained by letter the steps it was taking to address the requirements of the State law.

In 2011, the Ethics Commission began a collaborative process with the County Attorney’s Office and the County Council’s Legislative Attorney to review the County’s ethics laws. The objective of this collaborative effort is to amend and improve the County’s Ethics Laws and to meet the requirements of the State mandate of equivalency or greater restriction. This process will be very active in 2012 with a view to passing new ethics legislation that meets the State’s requirements.

8. Coordination and Outreach: The Staff of the Ethics Commission coordinates with the County Attorney’s Office and the Office of the Inspector General as necessary on legal and investigative matters; the Staff also serves as the principal public resource on the County’s ethics laws, to include managing a website that reflects Ethics Commission programs, activities, and

publications such as annual reports, approvals of outside employment requests, semi-annual lobbying data, and waivers and opinions.

9. Administration: The Staff of the Ethics Commission is responsible for assuring that Ethics Commission meetings are run in accordance with the Open Meetings Act and other applicable law. The Staff informs and advises the Ethics Commission as to all material matters under its jurisdiction; Ethics Commission staff are also responsible for budget, procurement, human resources, and resource management for the operation of the office in accordance with Montgomery County policies, and attends required training in these and other office management areas.

For the Commission:



April 10, 2012

Nina A. Weisbroth, Chair

Date

Contact Information for the Ethics Commission:

c/o Robert W. Cobb
Chief Counsel/Staff Director
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Room 204
Rockville, MD 20850-2322
phone: 240-777-6674