

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber,  Legislative Analyst

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

Those expected for this worksession:

Nina Weisbroth, Chair, Ethics Commission
Stuart Rick, Vice Chair, Ethics Commission
Robert Cobb, Staff Director/Chief Counsel, Ethics Commission
Phil Weeda, Budget Analyst, OMB

The April 23 Ethics Commission Budget packet is on ©10-25.

BACKGROUND

The GO Committee reviewed the Ethics Commission FY13 operating budget on April 23. The Committee recommended a summer meeting with the Ethics Commission, Inspector General and Executive staff to evaluate and discuss the Inspector General report – *Review of Certain Montgomery County Ethics Activities*. At the April 23 meeting, two issues were deferred until May 3:

1. Increase in Lobbyist Registration Fees to \$250
2. Financial Disclosure Process Shift to the Office of Human Resources (OHR)

LOBBYIST REGISTRATION FEE

Subsequent to the April 23 meeting, Council staff learned that the predecessor to the current Ethics Commission Staff Director/Chief Counsel did not pursue the Council recommended increase in the lobbyist registration fee due to budget reductions adopted in FY11. In FY11 the Ethics Commission budget was reduced by \$59,760 and one full-time Program Specialist II position whose job it was to process lobbyist fees and provide other administrative support for functions related to lobbyist registration. The law does not allow fees to exceed the cost of administering the lobbyist registration program.

Section 19A-23 (e) of the Montgomery County Codes states:

(e) The Commission may charge each lobbyist a reasonable annual registration fee in an amount set by an Executive regulation adopted under method (2). The revenue to be raised by the fee must not exceed the cost of administering this Article.

At the previous meeting, the Ethics Commission Staff Director/Chief Counsel did advise the Committee that increasing the fee to \$250 would make the fee among the highest in the country and that the Commission had not taken a position on the fee.

In FY12 the proposed increase in the lobbyist registration fee would have exceeded the cost of the lobbying registration program and violate the law. In FY13, the \$54,900 added to the Ethics Commission budget for web-based lobbying registration applications will provide an opportunity to increase the lobbyist registration fee because it increases the cost of the program. However, if the fee is increased for FY13, and the \$54,900 is no longer carried in the FY14 Ethics Commission budget, then program costs will not sustain a fee increase beyond FY13.

Options

- a. Place the recommendation to increase the lobbyist registration fee to \$250 on hold until consideration of the FY14 Ethics Commission budget next year. This will allow time for the Committee to review the Inspector General's report and recommendations and provide time to review revenues and expenses in the program to determine if fees can be raised and if additional resources are needed for the program. It will also give the Commission an opportunity to review the issue of increasing lobbyist registration fees.
- b. Amend the Ethics Commission law to delete the requirement that the lobbyist registration fee must not exceed the cost of administering the program.

FINANCIAL DISCLOSURE FUNCTION

A major change proposed in the FY13 budget is the shift of the financial disclosure process to OHR from the Ethics Commission. OHR will provide the administrative support to ensure that employees are filing annual disclosures and also filing when they enter and leave County government. OHR is currently recruiting for a Program Specialist I position to perform these duties. A copy of the position description is attached at ©26-29.

Current Process and Problem: The Montgomery County Ethics Commission currently has primary responsibility for the administration of the electronic filing system for financial disclosure reports required to be filed by the Public Ethics Law. The Ethics Commission has been the "owner" of the system. The Public Ethics Law does not assign the Ethics Commission this responsibility. The County's Ethics law financial disclosure requirements places responsibility for filing on those employees who are required to file and primary responsibility

for reviewing filed forms on County management. The primary obligations of the Ethics Commission are to prepare and distribute the forms and to maintain a repository for the forms after they are finalized.

The financial disclosure system is a multi-step process which includes: the identification of reviewers; the identification of filers and designation of type of filer (public or confidential); loading filers to the system so that they may file; the notification of filers of the obligation to file; filers preparation of the reports; the transmission of the reports to the reviewers; the review of reports; and the return of incomplete reports back to filers or forwarding of reviewed reports to the Ethics Commission.

The law does not specify which entities will perform these steps. The responsibility has fallen to the Ethics Commission as the owner of the system. When there is a failure to fulfill a responsibility, the Ethics Commission staff has often been left to fix it or to engage management to solve issues that only management has the authority and responsibility to solve.

Critical to the system and its proper functioning is accurate and timely information about the status of employees. As the system currently operates, new filers, annual filers, and final filers are unable to file reports until the electronic system is made available to them. When persons required to file cannot gain access to the system because their status has not been added to it, the Ethics Law's filing requirements are not met.

The Office of Human Resources and the Human Resources liaisons at the Departments work to establish the status of individuals for filing purposes. In addition to the static list of annual filers there are new hires, departures from County service, and transfers between positions, all of which can trigger financial disclosure filing requirements. Due to human resources system gaps, it has been left to Ethics Commission staff to figure out numerous anomalies from human resources systems regarding employee filing status. Because the Ethics Commission is not in possession of primary resource information regarding the status of employees, having the responsibility to conduct research into employee status is inefficient and takes a substantial amount of Ethics Commission staff time.

Budget Solution: It has been proposed in the FY13 budget that "ownership" of the FDS be transferred from the Ethics Commission to the Office of Human Resources. The Ethics Commission will retain oversight responsibility and will report publicly on compliance and performance. No statutory changes are needed. The transfer of authority will allow management to delegate responsibility to those with authority to execute those responsibilities and places management of filing and review with those in first line positions to ensure that compliance takes place as required. In particular, issues related to the status of employees are expected to be handled by OHR. The processes associated with ensuring that employees file their reports will be handled by department managers. The Ethics Commission will coordinate with other executive branch officials on enforcement. The role of the Ethics Commission will be to review whether management is successfully executing its responsibilities.

The Inspector General Report: The following comments on the financial disclosure process are excerpted from the Inspector General report – *Review of Certain Montgomery County Ethics Activities* – “*The effective deployment, operation, and enforcement of financial disclosure activities, however, reside outside the Commission’s sphere of influence. The Public ethics Law does not assign responsibility to implement and manage the deployment and logistical operation of the financial disclosure requirements of the law to any department, government branch, or commission. Successful logistical operation of this activity requires significant involvement of Executive branch departments, especially with respect to coordination with the Office of Human Resources and its systems. Currently, the Ethics Commission is responsible for the results of this process, but lacks the authority and accountability to ensure its effective operation. Most of the financial disclosure reporting weaknesses identified in this report are technical findings that arise from an absence of clearly delineated authority, accountability, and control for the financial disclosure process.*”

Charts: Attached are charts which show the current process (shading indicates processes to be shifted to OHR) at ©1 and the statutory roles and responsibilities for financial disclosures at ©2.

Options:

- a. Adopt the Executive’s FY13 operating budget recommendation to shift the financial disclosure process to OHR.
- b. Leave the financial disclosure responsibilities as they are and, as part of the Council Budget Resolution, direct OHR and the departments to provide accurate and timely information to the Ethics Commission about the status of employees.
- c. Make a determination about the transfer of the financial disclosure process after reviewing the Inspector General Report in June. As part of the Council Budget Resolution, direct OHR and the departments to provide accurate and timely information to the Ethics Commission about the status of employees.
- d. Conduct a comprehensive review of the financial disclosure system to include a process review and an evaluation of the electronic systems for financial disclosures so that responsibilities are assigned appropriately, accountability is ensured and the electronic system facilitates compliance with the Public Ethics law.

Attachments: Current Financial Disclosure Process	©1
Statutory Roles and Responsibilities for Financial Disclosures	©2
County Regulation 19A-23 – Lobbyist Registration Fee	©3
December 20, 2011 Memo from Staff Director/Chief Counsel to Comm.	©4
List of Inspector General Report Findings and Recommendations	©7
April 23, 2012 GO Committee Packet, Ethics Comm. FY13 Budget	©10

**Summary of Current Roles and Responsibilities of
Financial Disclosure System Administration**

*Shaded area shows the responsibilities to be shifted to OHR. **Processes to be eliminated

Ethics Commission	<ul style="list-style-type: none"> • “Business Owner”* • Responsible for Form Content/Instructions • Interpretation of Ethics Law and all Filing Requirements and Provide Guidance to Filers as to How to Complete Forms • Review Reports as required or as necessary • Provide Access to Public Forms per Ethics Law • Conduct Enforcement Activities Where Appropriate • Grant Extensions of Time to File • Add Information about Filers into FDS (no ethics information, just status information.)* • Maintain Separate (Unofficial) Database to Track Employment Status and Information about Filers to Ensure Integrity of HR Provided Information ** • Distribute Notices Concerning Initial, Reminder Annual, and Final Electronically through FDS* • Manually Input Identification of Report Reviewers into FDS (based on various sources)* • Assist in Solving Access to Filing System Issues*
Agency HR Liaisons	<ul style="list-style-type: none"> • Enter Personnel Data into ERP Systems
Human Resources	<ul style="list-style-type: none"> • Create the Financial Disclosure Master List from ERP • Communicates to Ethics Commission Through Interface Information about Changes in Status of Employees**
DTS	<ul style="list-style-type: none"> • Provides Technical Support on All Aspects of System • Launches Annual Filing Process (including first notice) Based on List Provided by HR with Adjustments Made by Ethics**
County Attorney	<ul style="list-style-type: none"> • Assists OHR with Processes for Identification of Filers and any Midyear Additions or Deletions to Filer List. • Assist in Removal Proceedings/Enforcement
County Executive County Council	<ul style="list-style-type: none"> • Provide Leadership in Assuring Compliance • Identify Public and Confidential Filers
Director of Finance	<ul style="list-style-type: none"> • Must Withhold Final Paycheck until Reports Filed by Employee/Filer Leaving County Service are Filed
Agency Directors/CAO	<ul style="list-style-type: none"> • Receive Forms, Forward Reviewed Reports • Assist in Ensuring Department Employees Comply With Requirements

* To be transferred **To be terminated

Financial Disclosure Statutory Roles and Responsibilities/Procedure

Ethics Commission	Prepare and Distribute financial disclosure forms by January 1 Make Available Public Statements If requested, review filer's statement (w/in 120 days)
All Filers	Initial Filing within 15 days of beginning service Annual Filing Statement by April 15 by covered employees Termination Filing Before leaving covered position
Confidential Filers	File financial disclosure statements under oath with director of a County agency where employee works or with CAO if no director
Agency Director or CAO	Certify statements are complete and no conflict of interest or potential conflict of interest exists (w/n 30 days, then forward to the Commission)
County Executive County Council	Identify Public and Confidential Filers required to file (beyond those identified in Public Ethics Law as filers); review annually
CAO/Council Staff Director	Removal for Failure to File Reports upon 30 days notice from County Attorneys Office

¶ Sec. 19A-23. How and when to register as a lobbyist.

(a) Every person required to register with the Commission under Section 19A-21 must disclose the following information on a form provided by the Commission:

(1) the lobbyist's name and permanent address;

(2) the name and permanent address of any person who will lobby on behalf of the lobbyist;

(3) the name, address, and nature of business of any person who compensates the lobbyist, with the written authorization required under Section 19A-22; and

(4) the identification, by formal designation if known, of each matter on which the lobbyist expects to lobby or employs someone to lobby.

(b) This form must be filed not later than 5 days after an individual or organization first meets the requirements for registration under this Article.

(c) A lobbyist must register separately for each employer.

(d) Each lobbyist may file a notice of termination within 30 days after:

(1) stopping any lobbying activity; and

(2) filing the reports required under this Article.

(e) The Commission may charge each lobbyist a reasonable annual registration fee in an amount set by an Executive regulation adopted under method (2). The revenue to be raised by the fee must not exceed the cost of administering this Article. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1.)

¶ Sec. 19A-24

DRAFT 12/01/11

MEMORANDUM

From: Robert Cobb, Chief Counsel/Staff Director

To: Ethics Commission

Date: December 20, 2011

Subject: Recommendation for Ethics Commission to Transfer Primary Responsibility for Financial Disclosure System Operation to Executive Branch Management

The Montgomery County Ethics Commission (EC) currently has primary responsibility for the administration of the electronic filing system for financial disclosure reports required to be filed by the Public Ethics Law. The EC has been the “owner” of the system.

The Public Ethics Law does not assign the EC this responsibility. The law contemplates that the EC will make financial disclosure forms available to filers by January 1 and to be a repository for completed forms.

The financial disclosure system can be thought of as a multi-step process. These steps include: the identification of reviewers; the identification of filers and designation of type of filer (public or confidential); loading filers to the system so that they may file; the notification of filers of the obligation to file; filers preparation of the reports; the transmission of the reports to the reviewers; the review of reports; the return of incomplete reports back to filers or forwarding of reviewed reports to the EC.

None of these steps intrinsically invoke the jurisdiction of the EC. Yet the EC, by being the owner of the system, has ended up as having responsibility for making sure that each of these steps has been completed. Moreover, where there is a failure to fulfill a responsibility, the EC staff has often been left with fixing it itself or trying to engage management to solve issues that only management has the authority and responsibility for solving.

The Public Ethics Law contemplates substantial involvement of County officials in the administration of financial disclosure. The County Executive and the County Council are required by the Ethics Law to identify positions for which a disclosure report is expected. This role is executed annually through a process that usually takes until February 15. But even after this, there is a great deal of work to be done to definitely establish the status of individuals for filing purposes. The Office of Human Resources and the Human Resources liaisons at the Departments carry the bulk of this work. But due to HR system gaps, it has been left to Ethics Commission staff to figure out numerous anomalies from

HR systems regarding employee filing status. Because the Ethics Commission is not in possession of primary resource information regarding the status of employees, it having the responsibility to conduct research into employee status is inefficient and takes a substantial amount of Ethics Commission staff time. Because the ultimate responsibility has settled upon the Ethics Commission rather than with those responsible for identification of employee status, the financial disclosure system (and access to financial disclosure report forms) was, in 2011, not made available for annual filers until April 15, the date the reports are by law due, and three and one half months after the ethics law expects forms to be distributed by the Ethics Commission (by January 1).

In addition to the static list of annual filers is the challenge associated with new hires, departures from County service, and transfers between positions, all of which can trigger financial disclosure filing requirements. Again, HR and HR liaisons take the lead in identifying these changes, but Ethics Commission staff ends up identifying and attempting to resolve or asking for resolution of dozens of anomalies in information received from HR.

One example of how the system as currently designed and operated results in systemic noncompliance with statutory requirements concerns financial disclosure filers who are leaving County service. The way it is supposed to work pursuant to the law is that the “final” financial disclosure report is to be filed prior to the termination of service by the employee. In fact, if the employee fails to file a “final” disclosure report, the County is required to withhold the final paycheck of the employee. The County has a check-out policy that is supposed to ensure the filing of the final report. What happens in fact is that many employees leave County service without filing a financial disclosure report. The County never withholds paychecks as required by law, and the Ethics Commission has been left with the awkward and difficult task of tracking down the departed employee to obtain the final report. Given budgetary constraints, the Ethics Commission has dropped trying to obtain these final reports. Here is a systemic failure of compliance with the Ethics Law rooted in management not carrying out its responsibilities. As the Ethics Commission is the owner of the FDS, there may be a misplaced expectation from management that the Ethics Commission would address the failures through enforcement. This is a systemic management problem that enforcement cannot fix.

The Public Ethics law contemplates that there will be a review process for the financial disclosure reports. In the Executive Branch, the responsibility for review resides with senior management. The Public Ethics Law and regulations contemplate that financial disclosure reports will be filled out and submitted to management, reviewed, and forwarded to the Ethics Commission. The electronic filing system roughly corresponds to the statutory framework. But the responsibility for assuring that reports are submitted for review and that reviews are conducted by management and forwarded as required has devolved upon the Ethics Commission. Some managers on their own do a very good job of making sure that the filers whose reports the managers review file timely. Some do not. The issue is that there is no management framework or system for assuring timely compliance with filing and review requirements.

While the Public Ethics Law is silent on notices to employees about filing responsibilities and normal follow-up with filers about late or incomplete filings, all of these sound management practices for administration have become the ultimate responsibility of the owner of the financial disclosure system, the Ethics Commission.

What should be in place is a system that places management of filing and review where the responsibility should lie, with those in a first line position to ensure that compliance takes place as required.

Then, it should be the role of the Ethics Commission to review whether management is successfully executing its responsibilities, by for example, providing notice to the County Executive and to the County Council of compliance with the filing and review requirements. Moreover, in appropriate cases, the Ethics Commission can take enforcement action, but recognizing that as for current employees, management again is in a much better position to assure compliance as it is in a position to discipline and even remove employees for non compliance.

Recommendation: “Ownership” of the FDS should be transferred from the Ethics Commission to Executive Branch management. The Ethics Commission will retain oversight responsibility and will report publicly on compliance and performance. No statutory changes needed. This transfer of responsibility should occur immediately. The Ethics Commission would help facilitate the transfer of responsibility to Executive Branch management.

**OFFICE OF INSPECTOR GENERAL
FINAL REPORT
REVIEW OF CERTAIN MONTGOMERY COUNTY ETHICS ACTIVITIES
FINDINGS AND RECOMMENDATIONS**

Finding 1 - Financial Disclosure Business Process Ownership: In general, our test results show widespread late filing and frequent non-filing of the financial disclosure reports the Public Ethics Law requires of employees, and board and commission members. Yet there is no overarching entity within Montgomery County Government that has the authority, accountability, and control necessary to ensure that the financial disclosure reporting process operates as anticipated by the Public Ethics Law.

Recommendation 1: Financial Disclosure Business Process Ownership

The County Executive and Council should work with the Ethics Commission Staff Director/Chief Counsel to ensure that authority, accountability, and control for the logistical operation and enforcement of the financial disclosure filing process are clearly delegated. It is further recommended that a staff member be designated within each of the Executive and Legislative branches and Boards, Committees, and Commissions to be responsible for ensuring compliance with the financial disclosure filing requirements of the Public Ethics Law.

Finding 2 - Initial Financial Disclosure: Policies, procedures, and systems have not been implemented in Montgomery County to ensure that individuals identified under the Montgomery County Public Ethics Law submit an initial financial disclosure report by established deadlines. Public employees and officials routinely submit financial disclosure reports later than the required 15 days following start of employment in a new role with the County.

Recommendation 2-a: Reduce Employment Notification Timeframes

We recommend that the Office of Human Resources implement procedural changes designed to eliminate the delays that prevent the Ethics Commission from providing FDS access to employees on their start dates.

Recommendation 2-b: Enhance ERP/FDS Interface Design

To strengthen internal controls and reduce the workload of the Ethics Commission program specialist, we recommend the Department of Technology Services in coordination with the Office of Human Resources and the Ethics Commission address the design anomaly and enhance the ERP/FDS interface software to cause the FDS interface to only transmit HCM changes that relate to a relevant FDS filing status.

Recommendation 2-c: Address System Access Delays

We recommend that Department of Technology Services (DTS), in coordination with the Office of Human Resources (OHR) and the Ethics Commission Staff Director/Chief Counsel, modify the design of policies, procedures, and systems to enable initial filers to timely access the FDS and comply with the 15 day filing requirement of the Public Ethics Law.

Finding 3 - Annual Financial Disclosure: Policies, procedures, and systems have not been implemented in Montgomery County to ensure that individuals identified under the Montgomery County Public Ethics Law submit annual financial disclosure reports by the established deadline. Public employees and officials frequently do not submit annual financial disclosure reports by the April 15 (or extended) deadline required by the Public Ethics Law.

Recommendation 3-a: Review and Streamline the Annual Reporting Processes

We recommend that the Chief Administrative Officer modify the procedures and shorten the reconfirmation process timeframe to annually identify and approve the individuals subject to financial disclosure. These changes should be designed to effect the Executive and Legislative branch and Boards, Committees, and Commissions compliance with the annual financial disclosure requirements of the Public Ethics Law.

Recommendation 3-b: Formalize and Document Deadline Extension

We recommend that any extension of the financial disclosure filing deadline be granted only by the Ethics Commission, that such extension be subject to documented deliberation as to cause, reason, and benefit, and that the Commission's review and approval be recorded in the Ethics Commission's Minutes.

Recommendation 3-c: Develop and Enforce Policies about Delinquent Filers

We recommend that the Chief Administrative Officer, in coordination with the Ethics Commission, develop and distribute written policies as to the handling of delinquent filers and non-filers of financial disclosures. These policies should address annual and change of employment status filings.

Finding 4 - Final Financial Disclosure: Policies, procedures, and systems have not been implemented in Montgomery County to ensure that individuals identified under the Montgomery County Public Ethics Law submit final financial disclosure reports by established deadlines. Public employees and officials routinely did not submit financial disclosure reports by the date of separation from service with the County. Provisions of the Public Ethics Law that address remedial actions and penalties for non-compliance are not enforced.

Recommendation 4: Enforce or Modify the Penalty Language of the Public Ethics Law

We recommend either enforcement of the law that requires final pay be withheld from individuals who have not filed a final disclosure, or, alternatively, the Ethics Commission propose legislative changes to the County Code that would establish a filing deadline and non-compliance penalty provision that can be enforced.

Finding 5 - Financial Disclosure Notifications: The Financial Disclosure System used by the Montgomery County Ethics Commission lacks the notifications, reminders, and management tracking reports to help ensure that filers, approving department directors, and the Ethics Commission staff meet the financial disclosure filing deadlines set by the Public Ethics Law.

Recommendation 5: FDS Software Modification

We recommend that DTS conduct a requirements and capability analysis of FDS notifications and tracking. Based on the results of that review, DTS could modify the

FDS to enable better compliance with the financial disclosure ethics laws. Such modification should also include the development of an alternative, manually completed disclosure report that can be used as a permanent fail-safe back up to the automated disclosure system. The FDS could better support the Public Ethics Law by more actively prompting financial disclosure filers and reviewing managers to timely meet their obligations.

Finding 6 - Outside Employment Activities: Delays in the manual, paper-based Outside Employment Approval Request process followed by the Ethics Commission increase the risk of an individual engaging in outside employment activities that are not allowed under the Public Ethics Law.

Recommendation 6: Revise Outside Employment Approval Practices

We recommend that the Ethics Commission implement the procedural and/or systemic changes necessary to timely meet the Outside Employment Approval responsibilities delegated to it in the Public Ethics Law.

Finding 7 - Continuity of Operations: The limited deployment of computer-based systems and the Ethics Commission's reliance upon manual processes contributes to delays and backlogs in the completion of assigned tasks. The absence of written procedures subjects the County's ethics activities to an undue risk in the continuity of operations in the absence or departure of its staff.

Recommendation 7-a: Document Procedures in a Manual

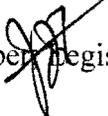
We recommend that the Ethics Commission document procedures that describe the automated and manual procedures the current program specialist and staff director/chief counsel monitor or personally perform. The descriptions should be in sufficient detail to permit another person's understanding and performance of the steps therein.

Recommendation 7-b: Evaluate and Modify Staffing Workload

We recommend that the Ethics Commission streamline or eliminate procedures where feasible. The Ethics Commission should pursue increased use of automation in the Financial Disclosure, Lobbyist Registration, and Outside Employment Approval Request activities.

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.			(\$000's)		
	FY13	FY14	FY15	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

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
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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
Montgomery County Ethics Commission
100 Maryland Ave.
Room 204
Rockville, MD 20850-2322
phone: 240-777-6674



MONTGOMERY COUNTY GOVERNMENT POSITION DESCRIPTION

The formatting of this form is designed for electronic use. It is not intended that responses be confined to the allocated space. If you are completing the form manually, please use addendum pages as required.

EMPLOYEE INFORMATION

Name: _____
Position Title: Program Specialist I
Grade (or Band): 18 Position Number: _____
Time in Current Position: _____ years
Department Division/Unit: OHR Business Operations and Performance (BOP)
Work Location/Address: 101 Monroe Street, Room 810, Rockville, MD 20850
Name and Title of Immediate Supervisor: Kaye Beckley
Work Telephone Number: _____
Supervisor's Work Telephone Number: 240-777-5041

POSITION DESCRIPTION SUMMARY

Job Summary Statement. Describe the primary purpose of your position in one or two sentences.

Functional administration of the financial disclosure program

Major Duties. List the essential functions (major duties) of your position and the percentage of time spent performing each duty. Major duties are those that occupy most of your time and those that are most important to the organization.

70% Major Duties
Provide support to all departmental reviewers of employee financial disclosure statements.
Monitor/maintain the accurate financial disclosure data throughout the year.
Work with Department HR Liaisons and Office of Human Resources Information Technology (OHR-IT) to obtain yearly financial disclosure data.
Create and submit financial disclosure Excel spreadsheets and emails to HR liaisons annually for financial disclosure data verification
Provide support, review and coordination of all financial disclosure data submitted by departments, agencies, Boards and Commissions.
Compare prior year financial disclosure report to current year data inserting underlines and brackets to be used by the Office of the County Attorney for the yearly inclusion in the County Executive's Regulation..

Create and submit financial disclosure reports to the County Attorney's office and to Department of Technology Services (DTS) for the annual financial disclosure launch.

Ensure that the yearly launch occurs and that initial and final financial disclosure filings are completed throughout the year.

Appear before the County Council annually regarding financial disclosure questions/concerns

Annually review over two thousand five hundred statements for compliance and reject or accept filings.

Ensure reports are created and sent to ACAO and BOP Manager relating to financial disclosure non-compliance

Participate in workgroups involving financial disclosure processes and administration

Organize meetings and provide support for identification of issues relating to what positions the financial disclosure program and IT solutions and develop meeting minutes/summaries.

Interface with BOP Manager, ACAO, agencies and Boards and Commissions in the resolution of financial disclosure related non-compliance

Draft and send out communications regarding financial disclosure launch, compliance and timely Information/data.

Organize and update the website and other informational mediums to ensure access to financial disclosure applications and information.

Answer inquiries in a timely manner.

25% Computer Help Desk Support

Manages (user's computer security groups) in active directory

Manages (financial disclosure software) application

Provides support and coordinates a final technical review of software application before system launch

Makes recommendations regarding office equipment and diagnoses of software problems

5% Miscellaneous duties as assigned.

Knowledge, Skills and Abilities. List general knowledge requirements and/or special skills needed to perform the major duties of your position and indicate how a knowledge or skill is used. Include any license, certificates, etc. that you are required by law to possess as a condition of employment and any special equipment, tools or machinery required to perform the essential functions of the job.

Knowledge of positions, classes and financial disclosure

General understanding of applicable County, State, and/or Federal regulations and procedures, as required

Knowledge of the principles, practices and techniques of program development, implementation and evaluation, where applicable

Knowledge of standard processes involved in financial disclosure administration

Analytical ability and skill sufficient to identify, consider and resolve readily observable financial disclosure data

Ability to prepare, interpret and evaluate financial disclosure program proposals and modifications

Ability to communicate effectively both orally and in writing

Ability to deal tactfully, effectively and equitably with people

Ability to participate in and facilitate meetings.

Ability to input and manipulate data in and navigate within Microsoft Excel and Access

Ability to prepare Microsoft PowerPoint presentations and Word documents.

Recommendations. In performing your major duties, what recommendations do you make (i.e., your opinion is solicited, but you do not have final authority)? To whom? Please give examples.

Notify department directors of employee filing timeframe

Notify ACAO of departmental non-compliance of financial disclosure filing

Recommend financial disclosure program proposals and modifications, where appropriate

Decision Making Authority. In performing your major duties, what final decisions do you make? Please provide examples.

N/A

Guidelines. What policies, laws, regulations, rules, standards, procedures, or trade practices do you refer to or follow in performing your work?

Ethics Law – Montgomery County Code – Chapter 19A

Ethics – Regulation Chapter 19A (COMCOR) 19A.06.01 AND 02)

Complexity. Indicate briefly what makes your job difficult or complex and why. Give examples of problems you must regularly resolve, challenges you encounter, what kinds of questions or problems you refer to your supervisor, and the type of information you must consider or the kind of analysis that you must conduct to make decisions.

Coordination and administration of the financial disclosure program is complex because the Ethics law evolves

Troubleshooting due to breakdown in communication with departments to remedy financial disclosure non-compliance or timely compliance

Contacts. With whom, or with what organizations, do you have regular job-related contacts? Include the purpose and frequency of each contact.

<u>Titles of persons and/or Name of organization</u>	<u>Purpose</u>	<u>How Often (Daily, weekly, etc.)</u>
Inside County Government		
All department and agency directors	One-on-one support for financial disclosure matters	As needed
All department human resource liaisons	One-on-one support for financial disclosure matters	As needed

ACAO	Notification of departmental non-compliance of financial disclosure filing	Monthly
Outside County Government		
<u>Titles of persons and/or Name of organization</u>	<u>Purpose</u>	<u>How Often (Daily, weekly, etc.)</u>
N/A		

Other. If applicable indicate the type, purpose and percentage of time that the following applies to you.

I provide direct, hands-on care or one-to-one assistance to the public. Please identify recipients of such assistance and the nature of service/assistance provided.

N/A

I work in an environment that is not a typical office setting.

N/A

I am exposed to hazardous conditions requiring use of special equipment and/or adherence to special precautions.

N/A

I have a work assignment that places other than ordinary physical demands on me.

N/A

ORGANIZATION CHART

Using the chart below, fill in the job title for the following positions: **1)** Your immediate supervisor; **2)** Your position and any other positions reporting directly to the same supervisor; **3)** Any positions that you directly supervise. If this form is insufficient, please prepare and attach your own organization chart.

1)

Business Operations and Performance Manager

2)

Program Specialist I

3)