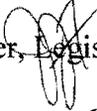


**MEMORANDUM**

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: **Briefing - Inspector General's Report –  
*Review of Certain Montgomery County Ethics Activities***

Those expected to participate or attend the briefing:

Edward Blansitt, Inspector General  
John Hummel, Deputy Inspector General  
Mike Morgan, Assistant Inspector General  
Robert Cobb, Chief Counsel/Staff Director, Ethics Commission  
Fariba Kassiri, Assistant Chief Administrative Officer  
Edward Lattner, Senior Assistant County Attorney  
Dieter Klinger, Director, Department of Technology Services  
Joseph Adler, Director, Office of Human Resources  
Kaye Beckley, Manager, Business Operations and Performance Division, OHR

Inspector General Ed Blansitt will brief the Committee on the IG's report entitled ***Review of Certain Montgomery County Ethics Activities***. The IG's PowerPoint materials are at ©25-36.

**Background:** 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 IG's findings and recommendations are at ©1-4. The report can be found on the County website at [http://www.montgomerycountymd.gov/content/InspectorG/pdf/igactivity/mcec\\_final\\_report\\_apr\\_2012.pdf](http://www.montgomerycountymd.gov/content/InspectorG/pdf/igactivity/mcec_final_report_apr_2012.pdf).

**Related Budget Actions:** The Executive's proposed FY13 Operating Budget added a new position in the Office of Human Resources to focus on the financial disclosure process and address some of the issues raised in the IG's report. In adopting the FY13 budget, the Council shifted this position to the Ethics Commission office in order to focus on the financial disclosure

process. Additional funding was also included in the FY13 budget to provide the technology to enhance the web-based Lobbying Registration Application. The Council also added the following to its Budget Resolution:

As a condition of spending funds appropriated in this resolution, the Office of Human Resources, and each Department and Office of County Government, must provide accurate and timely information to the County Ethics Commission regarding the status of employees in the respective Department or Office that the Commission needs to administer the County Ethics Law and particularly the law's financial disclosure provisions.

The Council also agreed that the County should 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.

**Response:** Executive staff and the Executive Director/Chief of Staff of the Ethics Commission will attend the briefing and update the Committee on the status of improvements to address the IG report and recommendations, the Council's recommended comprehensive review and the recruitment process for the new position.

Attachments:

Summary of Inspector General Findings and Recommendations	©1
OIG Response to Ethic's Commission and CAO Comments on Report	©5
Comments of Chief Counsel/Staff Director, Ethics Comm. on OIG Report	©8
Chief Administrative Officer's Comments on OIG Report	©17
IG PowerPoint	©25

## 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.

**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.

## **Summary of Ethics Commission and Chief Administrative Officer's Comments and OIG Response**

The Ethics Commission Staff Director/Chief Counsel's (Staff Director) and Montgomery County Chief Administrative Officer's (CAO) responses to the draft OIG report are provided in their entirety in Appendix B of this report. Both generally concur with our findings and recommendations relating to the financial disclosure process. The responses did not cause us to alter our findings or recommendations.

The CAO did not comment on our recommendations concerning the approval of outside employment requests and continuity of operations within the Ethics Commission, noting that those are matters within the purview of the Ethics Commission.

### **Recommendation 1: Financial disclosure business process ownership, and**

### **Recommendation 2: Initial financial disclosure**

The Staff Director and CAO agreed with these recommendations. The Staff Director and CAO stated they have mutually agreed to transfer the responsibility for the logistical operation of the financial disclosure process to the Executive Branch during April/May of this year.

### **OIG Comment:**

The planned actions are consistent with our recommendations.

### **Finding 3 - Annual financial disclosure**

The Staff Director and CAO generally concurred with our recommendations regarding the annual disclosure process; however, the CAO took issue with our finding that policies and procedures have not been implemented in Montgomery County that would ensure submission of annual disclosure reports by the established deadline. The CAO stated that rather than a lack of policies, it was adherence to those policies that is at issue.

### **OIG Comment:**

Our recommendation did not suggest a need for additional policies or procedures. We noted only that the policies and procedures we reviewed were not effectively implemented.

### **Recommendation 3-a: Review and streamline the annual reporting processes, and**

### **Recommendation 3-c: Develop and enforce policies about delinquent filers**

Both the Staff Director and CAO concurred with our recommendations. In his response, the CAO discussed actions he recommends to streamline the annual review and approval process.

**OIG Comment:**

We have not reviewed any of the CAO's recommended actions. However, their intent is consistent with our recommendation.

**Recommendation 3-b: Formalize and document deadline extension**

While the Staff Director concurred with our recommendation, the CAO disagreed. In his response, the CAO stated that following the transfer of financial disclosure logistical operations to the Executive Branch, the County Executive/CAO would be better situated to make a determination about extending deadlines.

**OIG Comment:**

We acknowledge that after the proposed transition is completed, the County Executive/CAO may be in a better position to know when an extension might be needed. However, the Public Ethics Law specifically assigns the responsibility and authority for extending a filing deadline to the Ethics Commission.<sup>44</sup>

**Recommendation 4: Enforce or modify the penalty language of the Public Ethics Law**

The CAO agreed with our recommendation but took issue with our finding that policies and procedures have not been implemented in Montgomery County that would ensure submission of final disclosure reports by the established deadline. The Staff Director partially concurred, stating that the existing law should be enforced, but not agreeing with the suggestion of pursuing legislative changes.

**OIG Comment:**

Our recommendation did not suggest a need for additional policies or procedures. We noted only that the policies and procedures we reviewed were not effectively implemented. The intent of our recommendation was to ensure that covered employees terminating County employment file timely final disclosures. Our recommendation offers either option.

**Recommendation 5: FDS software modification**

Both the Staff Director and the CAO agreed with our recommendation for improvements to Financial Disclosure System notifications and status tracking. However, the Staff Director took issue with our suggestion that the Department of Technology Services provide an alternative, manual disclosure form to serve as a fail-safe backup. The Staff Director states there was no consideration given to the resources necessary for maintaining what, in effect, would be a parallel system for filing, reviewing, and maintaining manually completed reports.

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<sup>44</sup> Montgomery County Code § 19-A 6(a)(5)

**OIG Comment:**

Our recommendation anticipated a manual form only in those instances where circumstances prevent submission of an automated disclosure. A parallel system was not the intent of our recommendation. However, we do agree that the number of manual filings that might result could create an additional workload burden for the Ethics Commission's staff.

**Recommendation 6: Revise outside employment approval practices**

The Staff Director partially concurred with our recommendation to revise outside employment approval to make the process more timely. While he agreed that electronic processes should help streamline and reduce manual input, he stated that the Ethics Commission's FY 2013 budget request for this purpose was not funded. He also stated his opinion that until sufficient resources are dedicated, the Ethics Commission will not be able to fulfill its programmatic and other responsibilities.

**OIG Comment:**

We did not conduct an analysis which would be necessary to determine and recommend an appropriate resource level for the Commission. However, we do not disagree with the Staff Director that timely review of the outside employment requests presents challenges for the Ethics Commission.

**Recommendation 7(a): Document procedures in a manual, and**

**Recommendation 7(b): Evaluate and modify staffing workload**

The Staff Director concurred with our recommendations that documented procedures are necessary for the sustainable operation of the Ethics Commission's programs. However, in addressing the need to document the activities of the Ethics Commission staff in written procedures, he noted limited resources available to address the issue at this time.

**OIG Comment:**

We did not conduct an independent resource analysis as a part of our review. However, we do understand that the burdens required to document operations while conducting both the administrative activities and the primary mission responsibilities required of the Ethics Commission could be a challenge. This highlights the concern expressed in our report that, should either member of the Ethics Commission staff become temporarily or permanently unable to perform their assigned tasks, there would be few, if any, documents that another individual could find in order to aid with the continuity of Ethics Commission's operations.

Appendix B: Ethics Commission and Chief Administrative Officer Responses



MONTGOMERY COUNTY ETHICS COMMISSION

April 3, 2012

To: Edward Blansitt, Inspector General

From: Robert Cobb   
Staff Director/Chief Counsel

Subject: Final Draft Report

Thank you for the opportunity to provide written comments on the draft report *Review of Certain Montgomery County Ethics Activities*.

As you are aware, the decision to conduct an Inspector General review of Ethics Commission programs was a consequence of a meeting conducted in your office with the newly appointed Staff Director/Chief Counsel of the Ethics Commission in July 2011. The brief experience of the Staff Director/Chief Counsel and the isolated experiences of new Inspector General staff in trying to access the Financial Disclosure System suggested considerable challenges being faced by Ethics Commission staff. It seemed that a review by the Inspector General might be able to bring transparency to and provide insight to the nature of these challenges and to identify possible avenues for their resolution.

At the outset, the Ethics Commission is greatly appreciative of the effort the Inspector General's office has committed to this review. The review of the Financial Disclosure System and other activities of the Ethics Commission provides useful insight to the source of problems and the effects those problems have on compliance with the Public Ethics Law.

Before responding to the specific findings and recommendations in the report, it may be contextually helpful to provide an executive level comment regarding the establishment and operation of a government ethics program.

There are codifiable and uncodifiable elements to sound and ethical government. The uncodifiable elements relate to the culture, values, and ethic of government employees and their attention and commitment to doing what is right in putting government and its purposes ahead of private interests. The uncodifiable elements are a function of the character of elected officials, leaders, managers, and employees at all levels and are a reflection of the character and nature of the society in which the government exists.

The goal of operating government free from inappropriate influence of private interests can be sought through codification and implementation of laws and regulations that promote an ethical

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culture. Laws and regulations and their enforcement can influence the culture and values of a government, but laws and values are separate. In other words, a government can operate without inappropriate influence of private interests in the absence of a regime of ethics laws and regulations or their effective implementation; on the other hand, sound laws and regulations and the full execution of those laws and regulations are no guarantee of ethical government. But proper execution of sound laws intended to promote ethical government increase the likelihood of ethical conduct, and provide a basis for the public to have confidence that government employees are not making decisions based on personal financial interests and relationships.

The report of the Inspector General deals with the Montgomery County Public Ethics Law and its implementation. The requirements of the Public Ethics Law having been set, County government must have processes and systems that are designed to implement those requirements, and resources and support for operation of those systems must be adequate to sustain the objective of meeting the Code's requirements.

The failure of processes and systems to implement the Public Ethics Law does not correlate to a conclusion that Montgomery County government is operating in an unethical fashion, and the Inspector General makes no such finding. However, when systems and processes necessary to bring about compliance with ethics requirements imposed by law fail, the intended benefit of the Public Ethics Law including greater assurance of ethical government and the promotion of public confidence in government are, to the extent of the failure, diminished.

With an enterprise-wide system, there has to be an enterprise-wide commitment to fulfilling the letter of the requirements and dedication to ensuring the establishment of systems that meet the specific requirements. This is true of the implementation of laws and rules designed to prevent conflicts of interest and other unethical activity, and it is true of the implementation of a system to collect and review disclosures of financial and other interests. Whether it is establishing a workable database of identifying information about individual filers so that it is known who is supposed to file what and when, or whether it is the proper notice, collection, review, and records management for disclosures, the commitment to execution must be organized and executed within all elements of County government.

Just as a commitment to ethical government is a government-wide commitment with accountability extending to every County elected official, manager, and employee, the successful execution of a comprehensive financial disclosure system is a government-wide commitment. In Montgomery County, it may be that too much responsibility for the execution of the financial disclosure system devolved upon the Ethics Commission, to a point where the Ethics Commission staff was conducting roles and responsibilities that should be handled by others. Having Ethics Commission staff spending a great deal of time trying to verify the employment status of employees the County executive has designated to file disclosure reports is one such example; that could be a human resources function and not an Ethics Commission function. Critical to execution of the County's Public Ethics Law is establishing systems where roles and responsibilities are aligned with the authority and power to implement system requirements.

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Some major steps have already been taken towards addressing this challenge, as will be discussed further below in the response to Recommendation 1.

Aside from operational roles and responsibilities is a second critical challenge, which concerns system design. At the highest level, the law has certain requirements about the filing of financial disclosure reports. The law indicates who is to file (or a process for the identification of filers), what is to be filed, and when the filings are to occur. The process for the submission and review of financial disclosure reports, to include the electronic financial disclosure report filing system, must be aligned with the top level requirements established by the Public Ethics Law. If they are not, then compliance with the law's requirements will not be possible. As the Inspector General report establishes, several functionalities of the financial disclosure system are not aligned with legal requirements. The Inspector General report focuses on a number of points of failure in the current system and how failures and delays frequently occur at those points of failure.

The Inspector General report does not recommend an overall top to bottom review of the financial disclosure system be conducted to include reconsideration of the system level requirements and the existing system's ability to meet those requirements. However, it may be time the County engaged in process review and reengineering of the human and electronic systems for financial disclosure so that compliance with the Public Ethics Law is facilitated. In doing so, it would be critical for those reengineering the process to make sure that: the system design meets the system requirements as set by law; roles and responsibilities are aligned with functional roles and authority; and adequate resources are dedicated to the reengineered system so that it operates as intended.

Several other jurisdictions, including the Maryland State Ethics Commission and certain elements of the Federal government, have electronic filing systems. Conducting a technical review of the advantages and disadvantages of existing systems might surface efficiencies that can be incorporated into the financial disclosure system.

A reengineered process might, for example, result in the more effective utilization of human resources information that is within the Enterprise Resource Planning (ERP) system. Lastly, as both State and County law regarding financial disclosure are changing, it is critical that the system be nimble to accommodate both major and minor changes in law. The Ethics Commission notes that conducting such a comprehensive review would be expensive and adequate resources would have to be dedicated to ensure both the success of the review and the implementation of the resultant reengineered processes.

Below are the Ethics Commission's specific responses to recommendations in the Inspector General's report.

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### 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.*

The Ethics Commission concurs with the recommendation. It is critical that the entire financial disclosure process be organized in such a fashion that roles and responsibilities are properly aligned with functional authority, so the process can work as designed and accountability for the process is clear.

Recognizing its own lack of authority and power to institute needed change with regard to the financial disclosure process, the Ethics Commission recommended to the Chief Administrative Officer (CAO) in December 2011 that "Ownership" of the financial disclosure system should be transferred from the Ethics Commission to the CAO and the CAO's designees. The Ethics Commission would retain oversight responsibility and would report publicly on compliance and performance.

The CAO agreed to this transfer of authority. Of course, that a transfer of authority is taking place is not in itself a solution. But, it will allow for management to delegate responsibility for activity to those with authority to execute those responsibilities. In particular, issues relating to the status of employees are expected to be handled by the Office of Human Resources (OHR). The processes associated with ensuring that employees file their reports will be handled at the first instance by department managers. The Ethics Commission will coordinate with other Executive Branch officials, to include the County Attorney's office, to institute coordinated enforcement action. With respect to each function, there will be greater accountability because the responsible party will have the power and authority to take the action it is expected to take.

At this time, though, the transfer of responsibility has not occurred. The CAO's office has assigned the bulk of the system maintenance responsibility to the Office of Human Resources, but the OHR has demurred on acceptance of responsibility to date as it does not have personnel to carry out the function of coordinating the system. The Ethics Commission has been informed that this hiring will occur in the spring or early summer. As there are a number of roles and responsibilities that come to bear in the administration of the system, and the delegation of responsibilities is under the purview of the CAO, the Ethics Commission looks forward to coordinating with the CAO's office as the management system for the Financial Disclosure System is crystallized.

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**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.*

The Ethics Commission agrees that the financial disclosure system design and operation appears to prevent and even preclude timely filing of initial financial disclosure reports. In order for initial filers to be able to file in accordance with the law and for the County to be able to review these reports so that it can ensure that the new filers do not have conflicts of interest that need to be addressed, initial filers need to have an ability to file a report as soon as they have begun service in a filing position. The Ethics Commission notes that pursuant to its transfer of responsibilities to the CAO, it does not expect to be the entity providing access to the FD system after the transfer.

**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.*

The Ethics Commission agrees that as designed, the interface system communicates information that is either incorrect or otherwise interferes with the efficient operation of the financial disclosure system. The Commission notes that as a result of the intended transfer of system operation to the CAO, the burden of making sure the financial disclosure system has loaded into it accurate information will not be on the Ethics Commission but on the CAO and the CAO's designees. It is critical that the person responsible for management of the list of financial disclosure system filers has all required support in the execution of that function and that accountability for the accuracy of the list rest with a senior management level employee.

**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.*

We agree, and look forward to working with DTS and OHR to accomplish this. New filers should have immediate and unobstructed access to disclosure forms, which should be internet based. When additional processes are involved, the risk of delay and error is introduced.

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*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.

We agree that the process should be reengineered with a view toward alignment with the Public Ethics law. For example, if the Public Ethics Law contemplates that the Ethics Commission will make financial disclosure reports available on January 1 for annual filings, then the framework for identification of filers should be ready by January 1. At the very least, financial disclosure forms should be available to filers by January 1 and a system in place for receiving filings from those who wish to file.

*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.

Concur. The Ethics Commission will document any future extensions accordingly.

*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.

Concur. A comprehensive set of policies and procedures towards enforcement of delinquencies and non-filings should be established. However, it is critical to the establishment of these policies and procedures that the financial disclosure system be operated in a manner consistent with the Public Ethics Law. As it stands now, for example, in many cases employees are impeded by the design and application of the system from timely filing of their reports. Obviously, enforcing a law when compliance with the law is made impossible by the very people who would be enforcing it makes no sense. So when initial or termination filers are prevented by the system itself from timely filing, strict enforcement of the timely filing requirement is impossible. Once the framework supplied by the Public Ethics Law for the timely filing of reports is lost, then enforcement becomes subjective and ad hoc.

As a practical matter, as a consequence of the multiple system failures in the system, the Ethics Commission exercised its judgment in how it would seek to obtain reports that were not filed.

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The Commission focused on the failure of current employees and current board, committee and commission members to file. As a practical matter, as a result of the efforts and working with the CAO, all current employees filed their 2010 annual financial disclosure reports and all but a very few current board, committee and commission members have filed. However, with respect to termination filings, no effort has been made by the Ethics Commission to enforce the failure to file. The financial disclosure system is designed to obtain these reports before employees leave service. There are system failures in obtaining these reports which are attributable to the design and management of the system. These design and management deficiencies include termination of access to County computer systems, failure of the County's check-out policies, and failure of the County to enforce the requirement to withhold the paycheck of a filer leaving service who has failed to file. Extremely time consuming and often fruitless attempts at enforcement would have no deterrence benefit and would have no impact on correcting the system failures. Therefore, what is in effect a suspension of enforcement of the non-filing of termination reports is the appropriate response to this system failure. Instead, the Ethics Commission has notified the CAO of the importance of department managers of using existing County check-out policies requiring that financial disclosure reports be filed prior to an employee's termination from County service. Moreover, the statutory mechanism of withholding an employee's final paycheck should be used if an employee refuses to submit a final disclosure report in connection with the check-out process. There should be no need for enforcement by the Ethics Commission of termination filings except in an extraordinary case.

*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.*

Partially concur. The Ethics Commission concurs in the recommendation that the Public Ethics Law be enforced; the Ethics Commission does not agree that the alternative suggestion that the law be amended to replace the penalty provision. The Ethics Commission believes the provision could be enforced, but is not.

*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.*

Partially Concur. The Commission concurs in that part of the recommendation focused on a requirements and capability analysis of financial disclosure system notifications and tracking,

Montgomery County Ethics Commission

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with necessary modifications to be made. The Ethics Commission believes the notification system should be reengineered to ensure adequate and timely notice to filers, reviewers, management and the Ethics Commission regarding the status of all filers. Moreover, the Commission believes that the analysis recommended should be part of an overall system review of the financial disclosure system.

Aside from fundamental data integrity regarding identifying information about each filer, the most important element to the Ethics Commission in any electronic system is the ability of that system to accurately report on noncompliance with Public Ethics Law requirements. Some efforts have recently been undertaken by the Department of Technology Services (DTS) to enhance the system's reporting capabilities in this regard, but reports have been flawed by the system's inability to consistently distinguish between what type of report is expected from filers.

As to that part of the recommendation concerning the development of a "an alternative, manually completed disclosure report that can be used as a permanent fail-safe back-up", the Ethics Commission recognizes the inherent feasibility of this idea, however, notes that apparently no consideration has been given to what resources would be necessary to create what would be a parallel system for filing, review and maintenance of these manually completed reports. The introduction of a parallel system should not be implemented without a cost-benefit analysis of the idea, with a firm understanding of what resources will be required to create and operate the parallel system.

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.*

Partially Concur. The Ethics Commission believes that there should be electronic processes to address outside employment requests so that the extensive manual data input by Commission staff is avoided, and has been making recommendations to County management to this effect for years. The Ethics Commission made a specific request in its FY 13 budget for funding for this purpose, but the request was not funded.<sup>1</sup> Nonetheless, Ethics Commission staff has been working with DTS to try to streamline processes.

A high percentage of the outside employment requests are attributable to the police department. Because of the authorizations and rule sets that have been extended to police department employees, a separate and more complicated outside employment form is submitted for police department employees. The existence of this special form, and the special rule sets for police department approvals results in a substantial administrative and processing burden on Ethics Commission staff. Moreover, to try to create an electronic form for the police department creates a level of complexity that is substantially greater than the standard outside employment form for employees other than police department employees.

<sup>1</sup> However, requested funding for electronic lobbying disclosure is funded in the FY13 proposed budget.

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In the context of the Inspector General recommendation for the Ethics Commission to "implement the procedural and/or systemic changes necessary", the Ethics Commission recognizes the value of this recommendation and looks forward to implementing it as time and resources permit. We note that the Inspector General does not identify any inefficiency in Ethics Commission operations or misapplication of Ethics Commission resources.

Until sufficient resources are dedicated to the Ethics Commission that match requirements imposed by law, the Ethics Commission will not be able to fulfill its programmatic and other responsibilities consistent with law and sound management practice.

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.*

The Ethics Commission concurs that procedure manuals are necessary for the sustainable operation of the Ethics Commission's programs. Prior to July 2010 when the complement of Ethics Commission staff included a program specialist II, there were procedure manuals for various operations of the Ethics Commission. For example, there were detailed instructions for the operations of the Lobbying Disclosure program and the processing of registration fees. Upon the departure of the program specialist II and the assumption of all program responsibilities handled by that employee by the program specialist I who was already handling all of the responsibilities associated with the financial disclosure system that is the primary subject of the Inspector General's report, there was a departure from the written procedures pursuant to which the lobbying disclosure program was being operated.

The Ethics Commission recognizes the value of this recommendation and looks forward to implementing it as time and resources permit.

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.*

The Ethics Commission recognizes the value of this recommendation and looks forward to implementing it as time and resources permit. With respect to the specific references in this Recommendation to increased use of automation, please see the discussion of the actions we are taking in this regard, infra.

Montgomery County Ethics Commission

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Appendix B: Ethics Commission and Chief Administrative Officer Responses



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

Timothy L. Firestine  
Chief Administrative Officer

MEMORANDUM

April 2, 2012

TO: Edward Blansitt, Inspector General

FROM: *TLF* Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: Final Draft Report, *Review of Certain Montgomery County Ethics Activities*

I am in receipt of your memo and draft report dated March 14, 2012 detailing the audit conducted by your office concerning the management of the County's Ethics Law with respect to the timely filing of Financial Disclosure Forms. We agree that adherence to the provisions of the Ethics Law is important and plays a key role in assuring our residents of a responsible and accountable County Government. My office will work with the stakeholders in other branches of government to improve the process and administration of the Ethics Law and related policies.

Before providing specific responses to your report's findings and recommendations, I would like to clarify the following points:

- The draft report does not acknowledge the fact that, as requested by the Ethics Commission, the ownership and total functional responsibility of the online Financial Disclosure System (FDS), currently handled by a staff to the Ethics Commission, is in the process of being transferred to the Executive Branch, Office of Human Resources. Currently, we are in the process of finalizing the recruitment package for hiring a new position in OHR to handle this task. This new position that hopefully will be filled within next six weeks is included in the County Executive's FY13 proposed operating budget submission to County Council.
- In reference to the Ethics Commission's training activities on County ethics law, the draft report refers to a 6% reduction (85 to 80) from FY10 to FY11. According to our records, for the past 25 years, all the trainings on ethics law for County officials, employees and Boards, Committees and Commissions were provided by the County Attorney's Office. Our understanding is that the Ethics Commission staff provides educational support on the actual functional use of the online system and responded to various questions over the phone.

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**Appendix B: Ethics Commission and Chief Administrative Officer Responses**



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

Timothy L. Firestine  
Chief Administrative Officer

MEMORANDUM

April 2, 2012

TO: Edward Blansitt, Inspector General

FROM: *for* Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: Final Draft Report, *Review of Certain Montgomery County Ethics Activities*

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## Appendix B: Ethics Commission and Chief Administrative Officer Responses

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Our specific responses to the findings and recommendations can be found below:

**IG 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.

**CAO Response to Finding 1-** As stated in the finding, the decentralization and diffusion of responsibility and ownership of the business process is a large part of the problem. In the next few weeks, after the ownership and total functional responsibility of the online Financial Disclosure System is transferred to the Executive Branch, the Chief Administrative Officer will be the authority who is accountable for ensuring that the financial disclosure reporting process operates as anticipated by the Public Ethics Law.

**IG 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.

**CAO Response to IG Finding 2:** We are in full agreement with the Inspector General that systems and procedures can be enhanced to improve timeliness of initial financial disclosure filings. Please refer to CAO Response to IG Finding 1.

**IG 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.

**CAO Response to IG Recommendation 2-a:** Please refer to CAO Response to IG Findings 1 and 2.

**IG 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.

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**CAO Response to IG Recommendation 2-b:** Please refer to CAO Response to IG Findings 1 and 2.

**IG 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.

**CAO Response to IG Recommendation 2-c:** Please refer to CAO Response to IG Findings 1 and 2. In compliance with the County Ethics Law, we will ensure timely access to the FDS by all filers.

**IG 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.

**CAO Response to IG Finding 3:** I do not agree with this statement. As indicated by the bulk of the Inspector General's draft report, policies and procedures are in place to require filing, both on an annual basis, as well as during the beginning and end of County employment. In our opinion, the issue is not the lack of policies, but the timely adherence to them. Please refer to CAO Response to Findings 1 and 2. In compliance with the County Ethics Law, we will ensure timely access to the FDS by all filers.

**IG 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.

**CAO Response to IG Recommendation 3-a:** We agree with the Inspector General's recommendation that the annual procedures for identifying financial disclosure filers should be shortened. The current process is cumbersome and should be streamlined.

The annual process for identifying individuals who must file a financial disclosure statement begins in the fall by asking departments to review the list of positions whose incumbents should file a financial disclosure statement in light of the criteria set out in §19A-17(c). After the departments respond, a proposed method (2) regulation is generally advertised in the November

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Register. The proposed regulation is then sent to the Council for approval in mid-January, just as the Council returns from its winter recess. The regulation is reviewed by the Government Operations (GO) Committee and the Council approval is typically given by mid-February. The Executive's proposed updates to the annual regulation typically reflect the routine creation and abolition of positions in the covered job classes over the previous year and the Council has assented to these updates without comment. This is a full 30 days after the January 15<sup>th</sup> deadline for the Chief Administrative Officer to submit a list of filers to the Ethics Commission (COMAR § 19A.17.01.02). As a result of this lengthy process (as the Inspector General notes), the statutory April 15th deadline for filing financial disclosure statements is routinely extended by the Ethics Commission (§ 19A-18 (a) (1)).

We recommend two changes to the current process:

- 1) The requirement that the County Executive must identify individuals who must file financial disclosure statements by method (2) regulation should be altered to identification of filers by method (3) regulation. This process would eliminate the 30 days at the back end of the process requiring Council review and approve the list of executive branch filers. This change would require an amendment to § 19A-17 (a) (4) and (b) (6). The Council's approval of the regulation identifying filers has become routine, and a change to a method (3) regulation should not be controversial.
- 2) There is no need for the list of filers to be sent to the Ethics Commission, since the notification to filers by the automated filing system does not (nor should it) require Commission action.

### **IG 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.

**CAO Response to IG Recommendation 3-b:** We disagree with the recommendation that the ability to extend the filing deadlines should rest with the Ethics Commission. We agree that extensions of the filing deadlines should only be granted for the reasons provided in § 19A-6(a)(5), but believe that the County Executive/Chief Administrative Officer are better situated to make this determination if they are going to assume responsibility for the financial disclosure filing system.

### **IG 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.

Appendix B: Ethics Commission and Chief Administrative Officer Responses

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**CAO Response to IG Recommendation 3-c:** We agree with this recommendation and will work collaboratively with the Ethics Commission to craft realistic and workable policies to discourage filing delinquencies.

**IG 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.

**CAO Response to IG Finding 4.** Please refer to CAO Response to IG Finding 3.

**IG 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.

**CAO Response to IG Recommendation 4:** We agree with this recommendation and will seek to determine how best to enforce the requirement that covered employees terminating County employment have their pay withheld if they do not file a final disclosure. The Executive Branch, with input from the Ethics Commission, will also review other potential workable options to enforce compliance with the requirement.

**IG Finding 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.

**CAO Response to IG Finding 5:** We agree that the current FDS system needs to be improved and that systematic notifications, reminders and management tracking functions should be developed to help ensure filers meet deadlines and enable management to have better insight into filing status and delinquent filers. Please refer to CAO Response to IG Findings 1 and 2.

In the recent weeks, with the Ethics Commission's consent, we have already created new compliance tracking reports to give management a better view of outstanding filings. We will

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continue to improve automation of follow-up notifications to filers and the managers who are responsible for review and approval of those filings.

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

**CAO Response to IG Finding 6:** This is a matter within the purview of the Ethics Commission.

**IG Recommendation 6: Revise Outside Employment Approval Practices.**

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

**CAO Response to IG Recommendation 6:** This is a matter within the purview of the Ethics Commission.

**IG 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.

**CAO Response to IG Finding 7:** This is a matter within the purview of the Ethics Commission.

**IG 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.

**CAO Response to IG Recommendation 7-a:** This is a matter within the purview of the Ethics Commission.

**IG 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.

**Appendix B: Ethics Commission and Chief Administrative Officer Responses**

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**CAO Response to IG Recommendation 7-b:** This is a matter within the purview of the Ethics Commission.

If you have any questions, please feel free to contact me or Assistant Chief Administrative Officer Fariba Kassiri, who can be reached at (240) 777-2512 or [Fariba.Kassiri@montgomerycountymd.gov](mailto:Fariba.Kassiri@montgomerycountymd.gov).

TLF:ja

cc: Joseph Adler, Director, Office of Human Resources  
Kathleen Boucher, Assistant Chief Administrative Officer  
Robert Cobb, Chief Counsel, Ethics Commission  
Marc Hansen, County Attorney, Office of the County Attorney  
Fariba Kassiri, Assistant Chief Administrative Officer  
Dieter Klinger, Acting Director, Department of Technology Services  
Connie Latham, Special Assistant to the County Executive

## **Review of Certain Montgomery County Ethics Activities**

Presentation of Final Report to the Montgomery County Council  
Government Operations and Fiscal Policy Committee

June 25, 2012



MONTGOMERY COUNTY MARYLAND

**OFFICE OF THE INSPECTOR GENERAL**



## Review of Certain Montgomery County Ethics Activities

### Objectives

***Determine whether:***

- Required procedures are documented
- Required procedures comply with State of Maryland and Montgomery County Codes, and
- Implemented procedures and internal controls are consistent with required procedures.

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## Review of Certain Montgomery County Ethics Activities

### Summary of Final Report Findings

- Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines (1-5)\*
  - Absence of an overarching entity with authority, accountability, and control to ensure financial disclosure reporting operates as anticipated by the Public Ethics Law
  - Policies, procedures, and systems have not been implemented that ensure compliance with financial disclosure reporting by established deadlines
  - The annual financial disclosure reconfirmation process is cumbersome, inefficient, and contributes to filing delays
- Outside Employment approval is a manually intensive process that increases the risk of individuals engaging in unauthorized activities (6)
- Reliance upon manual processes and absence of written procedures place the continuity of Ethics Commission operations at risk (7)

\* Numbers in parentheses reference *Final Report* Finding and Recommendation numbers

## Review of Certain Montgomery County Ethics Activities

**Finding: Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines**

*Absence of an overarching entity with authority, accountability, and control to ensure financial disclosure reporting operates as anticipated by the Public Ethics Law*

- Non-compliance primarily caused by business process problems (1)
- Small amount of non-compliance results from employee neglect (1)
- The Ethics Commission lacks the authority to fix most business process problems (1)
  - Ethics Commission is accountable for implementation & enforcement
  - Successful logistical operation requires significant involvement of Executive branch departments
  - Most financial disclosure findings in our report arise from a lack of clearly delineated authority, accountability, and control



Review of Certain Montgomery County Ethics Activities

**Finding: Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines**

*Absence of an overarching entity with authority, accountability, and control to ensure financial disclosure reporting operates as anticipated by the Public Ethics Law*

**Recommendations to the County Executive and Council:**

- Ensure clearly delegated authority, accountability, and control of the financial disclosure filing process logistical operations and enforcement (1)
- Designate an individual within each branch of County Government with enforcement authority and accountability (1)

---

## Review of Certain Montgomery County Ethics Activities

**Finding: Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines**

*Policies, procedures, and systems have not been implemented that ensure compliance with financial disclosure reporting by established deadlines*

- New and terminating employee procedures do not provide timely notification to financial disclosure system (2-a)
- Design anomalies in system interface causes processing errors (2-b)
- The Financial Disclosure System provides limited notification and tracking reports (5)
- Financial disclosure filers obtain access to reporting system after deadlines (2-c)
- Due to obstacles that prevent timely filing, provisions of the Public Ethics Law that address remedial action and penalties are not enforced (3-c & 4)

## Review of Certain Montgomery County Ethics Activities

**Finding:** Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines

*Policies, procedures, and systems have not been implemented that ensure compliance with financial disclosure reporting by established deadlines*

### **Recommendations to The Chief Administrative Officer:**

- Modify OHR policies and procedures to reduce employment notification timeframes (2-a)
- DTS should enhance ERP/FDS interface design to eliminate processing errors (2-b)
- OHR, DTS, and the Ethics Commission should address initial Financial Disclosure System access delays (2-c)
- The CAO should develop and enforce policies about delinquent filers (3-c)
- DTS should modify FDS software to enhance disclosure notification and management reporting capabilities (5)

### **Recommendation to The Ethics Commission:**

- Enforce or modify the penalty language of the Public Ethics Law (4)





## Review of Certain Montgomery County Ethics Activities

**Finding: Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines**

*The annual financial disclosure reconfirmation process is cumbersome, inefficient, and contributes to filing delays*

- The statutory requirement to annually review the list of individuals subject to financial disclosure: (3-a)
  - causes the list to be recreated each year
  - is cumbersome and time consuming, and
  - routinely misses the January 15 identification deadline
- Neither Office of Human Resources nor Ethics Commission data provide reliable snapshot reporting of “who must file” (3-a)
- Filing deadlines for annual disclosure reports are routinely extended without formal action by the Ethics Commission (3-b)



## Review of Certain Montgomery County Ethics Activities

**Finding: Widespread non-compliance with initial, annual, and final financial disclosure report filing deadlines**

*The annual financial disclosure reconfirmation process is cumbersome, inefficient, and contributes to filing delays*

### **Recommendations to The Chief Administrative Officer:**

- Review and streamline the processes to identify, approve, and report individuals subject to annual financial disclosure reporting (3-a)

### **Recommendation to The Ethics Commission:**

- Formalize and document extensions to the annual financial disclosure filing deadline (3-b)

## Review of Certain Montgomery County Ethics Activities

**Finding:** Outside Employment approval is a manually intensive process that increases the risk of individuals engaging in unauthorized activities

*Information is collected, approved, and reported as required, but the time between manager approval and Ethics Commission confirmation is increasing*

- All steps of the approval process are paper based and processed manually (6)
- Outside employment approval activities compete for staff resources with other Ethics Commission activities (6)

### **Recommendation to The Ethics Commission:**

- Implement procedural and systemic changes necessary to timely meet employment approval requirements of the Public Ethics Law (6)

## Review of Certain Montgomery County Ethics Activities

**Finding:** Reliance upon manual processes and absence of written procedures place the continuity of Ethics Commission operations at risk

*A number of Ethics Commission procedures are performed by manual operations that are not documented*

- Lobbyist Registration and Outside Employment Approval are manual activities (7-a)
- Although automated, the Financial Disclosure System requires manual intervention at key points (7-a)
- Manual procedures have not been documented (7-a)
- The workload of the Ethics Commission program staff increased as a result of enacting Council Bill 37-10 (7-b)

### **Recommendation to The Ethics Commission:**

- Document all manual procedures in writing (7-a)
- Evaluate workload and staffing (7-b)

## Review of Certain Montgomery County Ethics Activities

Questions or Comments?



MONTGOMERY COUNTY MARYLAND

**OFFICE OF THE INSPECTOR GENERAL**