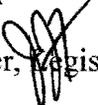


MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: **Worksession: Executive's Recommended FY14 Operating Budget
Ethics Commission**

Those who may attend this worksession:

Stuart Rick, Chair, Ethics Commission
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 FY14 is \$337,007, an increase of \$29,231 or 9.5% from FY13. Personnel costs comprise 92.2% of the budget. There are no major changes in this budget.

(in \$000's)	FY12 Actual	FY13 Approved	FY14 CE Recommended	% Change FY13-FY14
Expenditures:				
General Fund pers & op	191,456	307,776	337,007	9.5%
	-	-	-	
Positions:				
Full-time	2	3	3	0.0%
Part-time	-	-	-	
TOTAL Positions	2	3	3	0.0%
FTEs	2.0	3.0	3.0	0.0%

A copy of the Ethics Commission's annual report for 2012 is attached at ©4-12.

Ethics Commission Budget Adjustments	
Adjustments with no service impacts	
\$50,070	Increase Cost: Annualization of FY13 Personnel Costs
\$9,831	Increase Cost: Group Insurance Adjustment
\$9,000	Increase Cost: IT Maintenance
\$7,008	Increase Cost: FY14 Compensation Adjustment
\$73	Increase Cost: Printing and Mail Adjustment
-\$678	Decrease Cost: Retirement Adjustment
-\$2,153	Decrease Cost: Elimination of FY13 \$2,000 Lump Sum
-\$43,920	Decrease Cost: Elimination of FY13 One-Time Items for Technology improvements for web-based lobbying registration applications

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 as 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.
- ❖ **Complaints, Investigations and Hearings** – The Commission receives complaints and conducts investigations and hearings and makes findings and imposes sanctions and penalties.
- ❖ **Advisory Opinions, Waivers, Advice** – The Commission answers inquiries on the application of the Ethics law, publishes opinions and grants waivers.
- ❖ **Education** – The Ethics Commission conducts public education programs regarding the Ethics law.
- ❖ **Legislative and Regulatory** – The Commission recommends and prepares new ethics legislation and regulations.
- ❖ **Coordination and Outreach** – Staff coordinates with the County Attorney's Office and the Office of the Inspector General on legal and investigative matters. Staff acts as the public resource on County ethics laws.
- ❖ **Administration** – The staff provides administrative support to the Commission which consists of five volunteer members.

Issues

Personnel: Personnel costs increased due to the annualization of the new Program Manager I position and additional costs for the Program Specialist II position, created when the Program Specialist I position was abolished. The office is better able to meet its mission now that it has been reorganized.

Lobbyist Registration: In FY13 the Commission implemented a new online lobbying registration system and hopes to complete a new online lobbying reporting function this summer. One-time funding was included in the FY13 budget for these endeavors.

Lobbyist Filing Fee: The Commission revised the methodology used for charging lobbying fees ensuring lobbyist pay the registration fee for each client they represent. This is consistent with the way the State Ethics Commission collects fees. The fee structure changed so that each person conducting lobbying activities for a client would separately register to lobby. The law does not allow fees to exceed the cost of administering the lobbyist registration program and staff continues to monitor this.

Outside Employment: The office is pursuing computerization and streamlining of processes for employees to request outside employment and additional funding may be needed in the future for technical improvements to assist these efforts. The office is working with the Police department to streamline the outside employment application and approval process.

Inspector General Report: The Inspector General completed a report on April 9 entitled "Review of Certain Montgomery County Ethics Activities". The GO Committee received several updates on the report. Executive staff is in the process of updating its October 2012 CAO Audit Response Form (©17-18) that outlines the IG Recommendations indicating dates for County action.

Financial Disclosure: As a condition of spending funds appropriated in FY13, the Office of Human Resources and each Department and Office of County Government, was required to provide accurate and timely information to the County Ethics Commission regarding the status of employees. OHR and County departments are working with the Ethics Commission to provide timely information for the financial disclosure process. OHR briefed new Ethics Commission staff on OHR and Department HR Liaisons' role as it relates to the County's financial disclosure processes, training and orientation programs. The CAO sent a memo (©13-16) to all department and office directors outlining internal process changes to endure compliance with the ethics law.

The Staff Director/Chief Counsel to the Commission provided the following comments:

Ethics Commission Staff Views on Updates on Financial Disclosure System Improvements

The Ethics Commission has:

- hired new staff and has an increased ability to process financial disclosure issues.
- established the statutory deadline of April 15 for annual filings for the first time in the past several years (no mass extensions).
- formalized the process for granting extensions (in accordance with IG recommendation 3-b).
- worked with DTS to have adjustments made to the FDS to reduce errors (for example, eliminated user opportunities to select the wrong filing status) resulting in the reduction of error and improving the compliance database.
- identified an avenue for material change to County Executive designation process that could greatly facilitate administration of annual filing process. Rather than having the regulatory system designate filers for purposes of resetting who will file annual reports, the designation regulation should only look forward. (Who files an annual report is self-executing under the ethics law.) Redesignated positions will file either initials or finals, depending on whether the position is a new filing position or a position that no longer files. In this way, the designation process would not interfere and delay the annual filing process.
- coordinated with the CAO's office to improve overall compliance with filing requirements.
- coordinated closely with DTS on a significant number of data errors.
- reviewed possible changes to the financial disclosure law.
- reviewed the financial disclosure forms for errors and changes and has created a hard copy of the form as a fall-back form.
- worked with the DTS and the CAO to implement a weekly notice to HR Liaisons directing them to seek financial disclosure compliance from employees and former employees of their respective departments.

The Commission acknowledges the substantial efforts of DTS to provide a detailed map of the FDS and to address weaknesses in the FDS.

Council Staff Recommendation

- **Staff recommends approval of the Ethics Commission budget as submitted by the County Executive for \$337,007.**

Attachments:	Ethics Commission Budget	©1
	Ethics Commission Annual Report	©4
	CAO Memo 8/20/12 re Financial Disclosure Compliance	©13
	CAO Audit Response Form – October 2012	©17

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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 FY14 Operating Budget for the Ethics Commission is \$337,007, an increase of \$29,231 or 9.5 percent from the FY13 Approved Budget of \$307,776. Personnel Costs comprise 92.2 percent of the budget for three full-time positions. A total of three FTEs includes these positions as well as any seasonal, temporary, and positions charged to or from other departments or funds. Operating Expenses account for the remaining 7.8 percent of the FY14 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

- ❖ ***The Commission implemented a new online lobbying registration system.***
- ❖ ***The Commission revised the methodology used for charging lobbying fees ensuring lobbyist pay the registration fee for each client they represent.***
- ❖ ***Implementation of a new lobbying reporting function is planned for completion in FY13.***
- ❖ ***The Commission is engaged in a review of the financial disclosure provisions of the Public Ethics Law and will recommend changes, as necessary, to better address the potential for conflicts of interest.***
- ❖ ***Commission staff is working with the Chief Administrative Officer and the Department of Technology Services to improve the efficiency and effectiveness of the financial disclosure system.***
- ❖ ***The Commission is working with the Police Department to identify and streamline the Outside Employment application and approval process.***

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

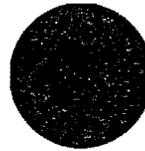
	Actual FY12	Budget FY13	Estimated FY13	Recommended FY14	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	149,109	198,829	200,360	248,836	25.2%
Employee Benefits	23,311	47,667	42,409	61,738	29.5%
County General Fund Personnel Costs	172,420	246,496	242,769	310,574	26.0%
Operating Expenses	19,036	61,280	61,280	26,433	-56.9%
Capital Outlay	0	0	0	0	---
County General Fund Expenditures	191,456	307,776	304,049	337,007	9.5%
PERSONNEL					
Full-Time	2	3	3	3	---
Part-Time	0	0	0	0	---
FTEs	2.00	3.00	3.00	3.00	---
REVENUES					
Miscellaneous Revenues	24,345	0	0	0	---
Other Charges/Fees	0	15,000	15,000	15,000	---
County General Fund Revenues	24,345	15,000	15,000	15,000	---

FY14 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY13 ORIGINAL APPROPRIATION	307,776	3.00
Other Adjustments (with no service impacts)		
Increase Cost: Annualization of FY13 Personnel Costs	50,070	0.00
Increase Cost: Group Insurance Adjustment	9,831	0.00
Increase Cost: IT Maintenance	9,000	0.00
Increase Cost: FY14 Compensation Adjustment	7,008	0.00
Increase Cost: Printing and Mail Adjustment	73	0.00
Decrease Cost: Retirement Adjustment	-678	0.00
Decrease Cost: Elimination of FY13 \$2,000 Lump Sum	-2,153	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY13	-43,920	0.00
FY14 RECOMMENDED:	337,007	3.00

FUTURE FISCAL IMPACTS

Title	CE REC.					
	FY14	FY15	FY16	FY17	FY18	FY19
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY14 Recommended	337	337	337	337	337	337
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	8	10	10	10	10
These figures represent the estimated cost of general wage adjustments, new service increments, and associated benefits.						
Subtotal Expenditures	337	345	347	347	347	347



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MONTGOMERY COUNTY ETHICS COMMISSION

Annual Report for Calendar Year 2012

Introduction

Section 19A-6(f) of the Montgomery County Public Ethics Law requires the Ethics Commission (the Commission) to publish an annual report. The report is to summarize the actions the 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 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 currently has five members which is a full complement under the Public Ethics Law. They, along with the respective dates of their terms' expiration, are:

Stuart D. Rick, Chair	10/2013
Kenita V. Barrow, Vice-Chair	10/2015
Rachel B. Brown	10/2015
Mark L. Greenblatt	10/2016
Nina Weisbroth	10/2013

In April 2012, Mr. Antar Johnson's term expired. Kenita Barrow was reappointed in May 2012; Rachel Brown was appointed in July 2012 filling Antar Johnson's vacated position; and Mark Greenblatt was appointed in November 2012, filling the position vacated by Gilles Burger in June 2011.

Calendar year 2012 was a year of great transition for the Commission. In April 2012, the Montgomery County Inspector General issued his report "Review of Certain Montgomery County Ethics Activities." The Inspector Generals' report is found at:

http://www.montgomerycountymd.gov/OIG/Resources/Files/PDF/IGActivity/FY2012/mcec_final_report_apr_2012.pdf

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This report detailed weaknesses in the design and administration of the Financial Disclosure System and observed that placing all of the staff responsibilities of the Commission in the hands of two persons causes a number of concerns in how the Commission addresses its mandates.

Reflecting the commitment of the County Executive and the County Council to the importance of the mission of the Commission, a new Program Manager I position was created, advertised, and filled in November 2012. This increased the staff for the Commission from two to three. Also, the Commission was allowed to abolish its Program Specialist I position and to create a Program Specialist II position. These personnel actions, along with a commitment to a new online lobby registration and reporting system, reflect the commitment Montgomery County Government made to its ethics program in calendar year 2012.

In addition to funding personnel changes, funding for an online lobbying registration and reporting system was provided for in the FY 2013 budget. In the fall of 2012, a new lobbying registration system was implemented and is now operational. It is expected that with the continued development of electronic systems to manage the Commission's programs, the Commission will be in a greatly enhanced position to execute its mission.

The Commission met in regular Public Meetings ten times during 2012. The Commission also conducted ten Administrative Meetings following its Public Meetings. (The Commission holds administrative meetings following its regular monthly meetings to consider matters that are non-public.) During the year, Commissioners attended two County Council work sessions relating to the Commission. One Commissioner served on the interview panel for the selection of the Program Manager I position.

Major Objectives for 2013

The Commission will continue to focus on the management of its core programs, the financial disclosure system, the lobbying program and the outside employment approval process. As identified in the Inspector General's report, the financial disclosure system suffers from many weaknesses. To address these, the Commission will continue to work with the Chief Administrative Officer, the Office of Human Resources, the Department of Technology Services, and the County Attorney in particular, to make incremental improvements in the existing system. Separately, the Commission will be reviewing the financial disclosure provisions in the Public Ethics Law with a view towards suggesting improvements that conform Montgomery County law to State Ethics Law requirements, consistent with making the provisions relevant to the prevention of conflicts of interest in Montgomery County.

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 Commission in each of the following areas:

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 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 regarding the status of filers, and resolves all anomalous circumstances and questions 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 holdings 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 addressed. The Public Ethics Law requires filings of financial disclosure reports 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 County employees annually. The program is administered by the Commission's 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 the 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.

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

The Commission processed over 900 requests for outside employment approval in calendar year 2012. Pursuant to the Commission's practice, Commission staff inputs data from the submitted requests onto a master template that provides a vehicle for Commission review of submissions. The manual input of data is extremely detailed and time consuming.

During 2011, plans were made to pursue electronic filing of outside employment requests in 2012. This has been an objective of Commission staff for several years. Unfortunately, this project was not funded. Commission staff will continue to work with the Department of Technology Services to develop an online request system for the outside employment approval process. One 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 for police requests. The form that the police use 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 Commission. Annual registration fees are required and are paid to the Commission and processed and deposited into the General Fund. The Commission publishes and updates information required to be made public by the Public Ethics Law. A list of the registered lobbyists in the County during 2012 can be found at:

<http://www.montgomerycountymd.gov/Ethics/Resources/Files/xls/lobbying2012web.xls>

In 2012, the Commission and the Department of Technology Services worked on an online registration system for lobbyists. This system was implemented in December 2012, and all new registrations for 2013 are being filed using the new system. The new system is intended to make registration easier for registrants, to allow data to be captured electronically rather than by manual process by Commission staff, and to promote transparency for the public in accessing the online data. The Commission is continuing to work on a second stage of the lobbying registration and reporting online project. Lobbyists are required to report semi-annually on their lobbying activities. The Commission will be replacing the outdated manual form used for this purpose with an online system. The online filing of these forms will greatly facilitate the filing

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of the forms and facilitate the management by the Commission of the information reported. Again, transparency to the public of the filed information will be an important advantage of the new system.

Another change was made by the Commission to the lobbying program as regards the charging of lobbying fees. This change is discussed below in the summary of Advisory Opinion 12-11-012.

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

During 2012, no new complaints of ethics violations that fell within the jurisdiction of the Commission were received; one matter that had resulted in a Commission hearing in December 2011, resulted in a finding of an ethics violation by the County's former Inspector General. The Memorandum and Order from the Commission pertaining to that finding is found at:

<http://www.montgomerycountymd.gov/Ethics/Resources/Files/memoandorder3-16-12.pdf>

There were no pending complaints or investigations at the close of 2012.

5. Advisory Opinions, Waivers, and Advice: In accordance with the Public Ethics Law, the Commission answers inquiries on the application of the ethics law, publishes opinions, and grants waivers of ethics law requirements, as appropriate. The Commission issued eight advisory opinions during calendar year 2012 which are published at:

<http://www.montgomerycountymd.gov/ethics/decisions/opinions/2012.html>

and granted four waivers which are published at:

<http://www.montgomerycountymd.gov/ethics/decisions/waivers/2012.html>,

and issued one general guidance memorandum published at:

<http://www.montgomerycountymd.gov/Ethics/Resources/Files/holidaypartyguidance.pdf>.

Summaries of the opinions, waivers and guidance appear below. The decisions made were limited to the facts presented and no assumption should be made to the application of the opinion to any other circumstances.

AO 12-01-001 concerned an inquiry as to whether an employee could accept travel reimbursement for attending an information technology conference from one of the sponsors of the event. Because the presenter of the check did not fall into any of the categories of prohibited sources of gifts, the travel reimbursement could be accepted. The employee would not be able to

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seek travel reimbursement from the County with respect to expenses already paid for by the outside source.

AO 12-02-002 concerned whether a former public employee was restricted from taking a job with a County vendor. The Commission determined that the employee was not restricted from working for the vendor nor limited in what the employee could do for the vendor while working for it. This was due to the Commission's conclusion that the former employee did not "significantly participate" in matters relating to the system the contractor was involved with where his position was to "troubleshoot" system issues, and not to evaluate or manage the Company's contractual arrangements with the County.

AO 12-03-005 concerned whether an employee could accept a valuable prize received at a computer security conference. The Commission determined that under the facts of the particular case, the employee would not have been entitled to keep the valuable prize, because the entity giving the prize was doing business with the employee's County agency.

AO 12-04-007 addressed whether an employee could keep a \$200 gift certificate received as a result of participation in a drawing. The Commission determined that under the specific facts presented, the employee would not be able to keep the gift certificate. While the gift was not explicitly prohibited under the gift rules, the Commission determined that the employee's entry into the drawing by using his County business card amounted to prohibited solicitation of a gift.

AO 12-04-006 was a third in a series of opinions (1995-3 and 11-10-005) addressing fundraising activities of Montgomery County Police on behalf of the Special Olympics. The core question was whether an exception to the prohibition on certain solicitations could be utilized, and particularly, whether the County Executive can authorize the Police Department to fundraise for a charity where a third party for-profit enterprise is integral to the fundraising program. The Commission determined that the County Executive can authorize the Department to be involved in the proposed charitable activities. The Commission suggests a number of considerations that should be taken into account by the County Executive before granting such fundraising authority.

AO 12-06-008 concerned the Arts and Humanities Council (AHC MC) and whether implementation of a proposal regarding AHC MC structure would create a conflict of interest under County ethics law. The Commission provided generic advice as to how the proposed structure might cause conflicts of interest under County law.

AO 12-07-010 answered an inquiry from a Board Commission or Committee (BCC) member who was interested in applying for the executive director position of the very BCC the individual was a member of. The Commission advised that the BCC member should resign the individual's BCC position before applying for the vacant executive director position for the BCC.

AO 12-11-012 concerned the manner in which lobbying fees are charged to lobbyists registering in Montgomery County. The Commission concluded that all lobbyists meeting the requirements for registration be registered for each client represented and that all lobbyists pay the annual

registration fee. This constituted a change in practice as some lobbyists (who were not the registering lobbyists) had previously been identified on registrations without paying the annual registration fee.

The Commission issued four waivers in 2012.

Waiver 12-02-03 addressed the statutory conflict created by a request of a doctor at the Department of Health and Human Services to have outside employment with an entity (a hospital) doing business with the County. The Commission determined that the proposed employment was not likely to create an actual conflict of interest.

Waiver 12-02-004 addressed a request for a waiver from the prohibition on outside employment with a vendor of the employee's department. The Commission determined that subject to the condition that the employee, in his county job, not work on matters affecting the outside vendor, that the outside employment activity would not create an actual conflict of interest.

Waiver 12-06-009 addressed a request from an employee who wanted to seek employment (to begin after service with the County) with a manufacturer who did business with the County. The employee participated personally and substantially as a County employee in matters affecting the manufacturer. The Commission determined that no actual conflict of interest would exist if the employee recused himself from all matters affecting the potential employer. Furthermore, the waiver was issued contingent on the employee not representing the manufacturer before the County during his employment with the manufacturer.

Waiver 12-08-011 involved a request from a part time librarian to work for the Friends of the Wheaton Library Book Store. Based on the facts presented to the Commission, the Commission granted the waiver as long as the requestor declined assignments to work at the Wheaton library and contingent on the requestor's not exercising any County authority over arrangements between the County and the Friends of the Library and its chapters.

In addition to the advisory opinions and waivers listed above, the Commission issued "Guidance on Attendance at Holiday Parties and Other Celebrations." This guidance was issued after an inquiry was received from a member of the public as to the propriety under the gift provisions of the County ethics law of County officials, including elected officials, attending holiday celebrations sponsored by lobbyists and persons doing business with the County. The guidance was intended to provide insight to the gift prohibitions in the ethics law and the extent to which exceptions to the gift prohibition would apply to attendance at holiday parties and similar events.

6. Education: The Commission conducts public education and other information programs regarding the Ethics Law. With the exception of 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. Commission staff focused on other priorities in 2012 and intends to increase its role in 2013 in educating County employees of their obligations under the Public Ethics Law.

7. Legislative and Regulatory: The 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 Commission is required to certify on October 1 of each year that Montgomery County's Ethics Law is equivalent to or more restrictive than State Ethics Law as regards elected officials. This requirement was substantially met in 2012 through a letter to the State Ethics Commission in which the Commission explained the steps it was taking to address the requirements of the State law.

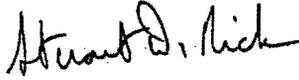
In 2011, the Commission began a collaborative process with the County Attorney's Office and the County Council's Legislative Attorney to review the County's ethics laws. In the April 2012, the Commission forwarded a draft of some proposed amendments to the Public Ethics Law to the State Ethics Commission. Counsel to the Commission attended a meeting of the State Ethics Commission in May 2012 to discuss the proposal. No formal comment has been received by the Commission to its April 2012 proposal. Subsequently, in October 2012, the Commission considered and approved a proposed approach to a redrafting of amendments to financial disclosure portions of the Public Ethics Law. Thematically, the approach is to align financial disclosure reporting with possible conflicts of interests, the primary objective being learning what assets or relationships an employee has that may be at odds with the execution of the employee's County job. The Commission anticipates further development of legislative proposals in 2013.

8. Coordination and Outreach: The Staff of the 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 Commission programs, activities, and publications such as annual reports, approvals of outside employment requests, semi-annual lobbying data, and waivers and opinions. In recent years, reductions to the Commission staff resulted in reduced staff attention to its management of its website. The hiring of a new Program Manager in November 2012 has substantially improved the Commission's ability to fulfill its transparency mission.

9. Administration: The Staff of the Commission is responsible for assuring that Commission meetings are run in accordance with the Open Meetings Act and other applicable law. The Staff informs and advises the Commission as to all material matters under its jurisdiction; 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:

Respectfully Submitted,



Stuart D. Rick, Chair

February 19, 2013

Date

Contact Information for the Ethics Commission:

Montgomery County Ethics Commission
c/o Robert W. Cobb
Chief Counsel/Staff Director
Montgomery County Ethics Commission
100 Maryland Ave.
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Montgomery County Ethics Commission

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OFFICES OF THE COUNTY EXECUTIVE

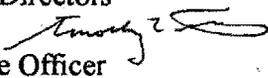
Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

August 20, 2012

TO: Executive Branch Department and Office Directors

FROM: Timothy L. Firestine, Chief Administrative Officer 

SUBJECT: Internal Process Change to Improve Financial Disclosure Compliance

As a result of a recent assessment of the financial disclosure process, I have determined that it is necessary to develop internal process changes to ensure that employees within the Executive Branch conform to the requirements of the Public Ethics law. Please refer to the attachment, which outlines these changes.

Additionally, in partnership with the Ethics Commission, we are assessing the entire financial disclosure process to determine the possibility of a more comprehensive solution for handling required disclosure filings by County employees and the members of the Boards, Committees, and Commissions.

Thank you in advance for implementing and monitoring this new process. If you have any questions, please contact Fariba Kassiri, Assistant Chief Administrative Officer, at 240-777-2512 or Fariba.Kassiri@montgomerycountymd.gov.

TLF:fk

Attachment

cc: Nina A. Weisbroth, Chair, Montgomery County Ethics Commission
Robert Cobb, Chief Counsel, Montgomery County Ethics Commission
Steve Farber, Staff Director, Montgomery County Council
Edward Blansitt, Inspector General

Internal Process Changes to Ensure Compliance with the Public Ethics Law*

Employees' Initial and Final Financial Disclosure Filings

Effective immediately, as directed by the Chief Administrative Officer, the following internal process changes are required to ensure that the financial reporting process operates as anticipated by the Public Ethics Law, especially as it relates to executive branch employees' "initial and final" filings.

Initial Financial Disclosure Filings – New Employees

- 1) Subsequent to an informal job offer acceptance, OHR sends by email and US mail a formal job offer letter to the new employee (with copy to the Department Director and Department HR Liaison) notifying the new employee of the following:
 - a. salary, start date, etc.;
 - b. specifics about employee orientation day; and
 - c. that his/her position must file an initial financial disclosure within 15 days of their start date and include a link to the Commission's website.

- 2) Upon receipt of the copy of the formal offer letter, the Department HR Liaison immediately establishes the Active Directory (AD) Account for the new employee. The Department HR Liaison places all of the new employee information into Oracle HCM, paying special attention to ensure the accuracy of the **Change Reason** and the **Effective Date** of the employee's assignment. The HR Liaison enters a note in the comment section that the AD account has been created. It is critically important that the Department HR Liaison immediately and accurately complete the steps described above.

- 3) On orientation day, the new employee completes the I-9 form and by close of business on the same day Core HR processes the assignment change for the new employee.

- 4) The day after the new employee orientation, the Ethics Commission will receive the Interface with the new hire information and will provide the new employee access to the Financial Disclosure system.

- 5) On a bi-weekly basis, the Department HR Liaisons, Department Directors, and the Chief Administrative Officer, or a designee, will receive a financial disclosure delinquency report from the Ethics Commission's FD system administrator. The Department Directors and HR Liaisons are responsible for routinely checking these reports and, if needed, immediately follow up to ensure that employees complete their financial disclosure statement prior to the next delinquency report.

Initial Financial Disclosure Filings – Employees Who Change Positions (promotions, transfers, etc.)

- 1) Upon acceptance of a formal job offer, the Department HR Liaison immediately places all of the employee information into Oracle HCM, paying special attention to ensure the accuracy of the **Change Reason** and the **Effective Date** of the employee's assignment. For transactions involving positions where financial disclosure filing is necessary, the HR Liaison must disregard payroll cut off dates and place the information into the Oracle HCM system immediately.
- 2) The day after Core HR approves the transaction, the Ethics Commission will receive the Interface with the new assignment information and will provide the employee access to the Financial Disclosure system.
- 3) On a bi-weekly basis, the Department HR Liaisons, Department Directors, and the Chief Administrative Officer, or a designee, will receive a financial disclosure delinquency report from the Ethics Commission's FD system administrator. The Department Directors and HR Liaisons are responsible for routinely checking these reports and, if needed, immediately follow up to ensure that employees complete their financial disclosure statement prior to the next delinquency report.

Final Financial Disclosure Filings - Departing Employees

- 1) Immediately after employee's resignation, retirement, or dismissal is submitted and accepted by the manager, the employee's manager notifies the HR Liaison and the Department Director and then reviews the exit checklist (see HR Resource Library) with the employee. At that time, the manager informs the employee that they must complete the financial disclosure final statement as soon as they are notified by the HR Liaison, but no later than the employee's last day in the office. On the same day, the Department HR Liaison updates the departing employee's personnel information in the Oracle HCM.
- 2) The following day, the Ethics Commission will receive the Interface with the departure update and will give the departing employee access to the Financial Disclosure system. Typically, final financial disclosures cover the time period since the employee's last filing. The Ethics Commission is responsible for determining and providing clear guidance regarding the exact time period for which financial information must be disclosed in the departing employee's final filing.

- 3) Section 19A-18(f)(2) of the County Ethics Law provides that the Director of Finance must not issue the final paycheck of an employee subject to financial disclosure until the employee has filed their final (or exit) financial disclosure statement. Therefore, the Department HR Liaisons and/or Department Directors must notify the Finance Department immediately upon learning that that an employee in their department subject to financial disclosure is leaving County service. This will permit the Finance Department to 'flag' the payroll system that will withhold the employee's final paycheck until the 'flag' is removed after the employee's final financial disclosure statement is filed. The Department HR Liaisons and/or Department Directors must then notify the Finance Department once the employee's final financial disclosure statement is reviewed and approved by the director/reviewer.
- 4) On a bi-weekly basis, the Department HR Liaisons, Department Directors, and the Chief Administrative Officer, or his designee, will receive a financial disclosure delinquency report from the Ethics Commission's FD system administrator. The Department Directors and HR Liaisons are responsible for routinely checking the Ethics Commission's financial disclosure delinquency report and if needed, immediately follow up to ensure that employees complete the financial disclosure statement prior to the next delinquency report.

CAO Audit Response Form

Audit Report Title: Review of Certain Montgomery County Ethics Activities

Auditor's Organization: Office of the Inspector General

Audit Report #: IG12/4/9 issued on May 29, 2012 - CAO's response to IG's draft report of March 14, 2012 was issued on April 2012 (copy attached)

Respondents: Fariba Kassiri, ACAO; Marc Hansen, County Attorney; Joe Adler, Director, OHR; Sonny Segal, Director, DTS

Auditee Point of Contact: Fariba Kassiri, ACAO

Date Final Report Issued to Respondents: 7/9/2012

Date Action Plan Due from Respondents: 9/9/2012

Respondents' Action Plans

IG Audit Report Recommendations	Date Action Plan Submitted to CAO	Projected Implementation Date	Date Implemented (if Applicable)	Comments/Obstacles/Steps Involved (attach supporting documents if applicable)
<p>Kassiri/CAO's Office in coordination with Ethics Commission & Council</p> <p>1 Executive and Council should work with the Ethics Commission (EC) to ensure authority, accountability, and control for the operation/enforcement of filing process are delegated. Assign staff to oversee compliance. (Report page 7)</p>	On hold until 8/20/13	On hold until 8/20/13	On hold until 8/20/13	At 9/21/12 coordination meeting held with the key players (EC, CC, IG, County representatives), it was agreed that the next step would be to define the roles and responsibilities, and map the current system/process before developing an action plan. Also, as confirmed by the IG, this recommendation intended to highlight the key issues related to FDS and enforce systematic resolution of those issues. It was decided that resolution of this summary recommendation would best wait until the remaining IG recommendations are implemented, FDS process is mapped and roles/responsibilities are better defined.
<p>Adler/OHR in coordination with DTS & Ethics Commission</p> <p>2a OHR implement procedural changes designed to eliminate the delays that prevent EC from providing FDS access to employees on their start dates. (Report page 9) See note 1 below</p>	8/20/2012		8/20/2012	Refer to CAO memo of August 20 regarding "Internal Process Changes to Ensure Compliance with the Public Ethics Law". New process for initial and final filers already put in place. Within one year, but no later than 8/20/2013, DTS will start annual reporting on the percentage (%) of initial filings submitted within 15 days of hire to track progress. The IG report showed 86% delinquency. In addition, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
<p>2b DTS, in coordination with OHR and the EC, 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. (Report page 10) See note 1 below</p>	Will be visited again around March/April 2013	Will be visited again around March/April 2013	In progress	As agreed at 9/21/12 coordination meeting, we need to map the current system to fully understand the issues before making any changes. DTS has a task order in place for documenting the current system and business processes. The initial draft will be completed by December 2012 and, in very close coordination with EC, will be finalized by March/April of 2013. In the meantime, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
<p>2c DTS, in coordination with OHR and the EC 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. (Report page 12) See note 1 below</p>	8/20/2012		8/20/2012	Refer to CAO memo of August 20 regarding "Internal Process Changes to Ensure Compliance with the Public Ethics Law". New process for initial and final filers already put in place. Within one year, but no later than 8/20/2013, DTS will start annual reporting on the percentage (%) of initial filings submitted within 15 days of hire to track progress. The IG report showed 86% delinquency. In addition, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers

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Hansen/OCA in coordination with OHR & Ethics Commission 3a CAO 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. (Report page 14)	In progress	In progress	In progress	Need further discussion w/Council and Ethics Commission.
3c The CAO, in coordination with the EC, 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. (Report page 16) See note 1 below	8/20/2012		8/20/2012	Refer to CAO memo of August 20 regarding "Internal Process Changes to Ensure Compliance with the Public Ethics Law". New process for initial and final filers already put in place. Within one year DTS will start annual reporting on the progress made in reducing the delinquencies in each of the areas highlighted in the IG report. We believe, in addition to this process change, creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
Hansen/OCA in coordination with OHR & Finance 4 Enforcement of the law that requires final pay be withheld from individuals who have not filed a final disclosure. (Report page 18)	8/20/2012	Within a year, but no later than 8/20/2013, OHR will report on the results.	In progress	Refer to CAO memo of August 20 memo regarding "Internal Process Changes to Ensure Compliance with the Public Ethics Law". New process for initial and final filers already put in place. Within one year DTS will report on the progress made in reducing the delinquencies in each of the areas highlighted in the IG report. We believe, in addition to this process change, creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
Kassiri/CAO's Office in coordination with Ethics Commission 5 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. (Report page 19)	Will be visited again around March/April 2013	Will be visited again around March/April 2013	In progress	As agreed at 9/21/12 coordination meeting, we need to map the current system to fully understand the issues before making any changes. DTS has a task order in place for documenting the current system and business processes. The initial draft will be completed by December 2012 and, in very close coordination with EC, will be finalized by March/April of 2013. In the meantime, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.

NOTE 1: On 5/3/12, the GO committee disagreed with the prior joint decision of the EC and the CAO to transfer logistical operations of the FDS to the Executive Branch. Therefore, at the GO committee's request, the EC Commission and the CAO reversed their decision and agreed to keep the responsibility for logistical operations of the system with the EC. In addition, the Council authorized additional human and funding resources to the EC.

NOTE 2: Recommendations 3b, 6, 7a, and 7b are directed to the Ethics Commission, which does not fall under the direction of the CAO. Therefore, those recommendations are not included in this form.

CAO Audit Response Form

ADDENDUM

Audit Report Title: Review of Certain Montgomery County Ethics Activities

Auditor's Organization: Office of the Inspector General

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Auditee Point of Contact: Fariba Kassiri, ACAO

Date Final Report Issued to Respondents: 7/9/2012

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<p>Adler/OHR in coordination with DTS & Ethics Commission</p> <p>2a OHR implement procedural changes designed to eliminate the delays that prevent EC from providing FDS access to employees on their start dates. (Report page 9)</p>	8/20/2012	Complete	8/20/2012	Refer to CAO memo of August 20 regarding "Internal Process Changes to Ensure Compliance with the Public Ethics Law". New process for initial and final filers already put in place. Within one year, but no later than 8/20/2013, DTS will start annual reporting on the percentage (%) of initial filings submitted within 15 days of hire to track progress. The IG report showed 86% delinquency. In addition, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
<p>2b DTS, in coordination with OHR and the EC, 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. (Report page 10)</p>	Will be visited again around the end of May 2013 (after the 2012 submission deadlines)	Will be visited again around the end of May 2013 (after the 2012 submission deadlines)	In progress	As agreed at 9/21/12 coordination meeting, we need to map the current system to fully understand the issues before making any changes. DTS has a task order in place for documenting the current system and business processes. The initial draft will be completed by December 2012 and, in very close coordination with EC, will be finalized by March/April of 2013. In the meantime, County's newly implemented internal process changes, including creation of the online compliance reports and an automated bi-weekly delinquency report to both reviewers and HR liaisons, will improve the process.
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CAO Audit Response Form

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