

Resolution No.:	<u>17-517</u>
Introduced:	<u>July 24, 2012</u>
Adopted:	<u>July 31, 2012</u>

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT: Fiscal Year 2013 Work Program of the Office of Legislative Oversight**

**Background**

1. Chapter 29A, Montgomery County Code, establishes the Office of Legislative Oversight to serve as the principal means through which the Council exercises its legislative oversight functions. This includes providing the Council with information and recommendations concerning the operations of public and private agencies, programs, and functions for which funds are appropriated or approved by the Council.
2. The law establishing the Office of Legislative Oversight (Chapter 29A, Montgomery County Code) specifically authorizes the Office to conduct special program or budget analyses at the request of the Council.
3. Section 29A-6 provides that the Director, Office of Legislative Oversight, shall prepare an annual Work Program, which shall be submitted to the Council for approval. On July 24, 2012, the Council introduced this resolution that outlines projects to be included on the Office of Legislative Oversight's FY13 Work Program.

**Action**

The County Council for Montgomery County, Maryland, approves the attached Fiscal Year 2013 Work Program for the Office of Legislative Oversight.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

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**PROJECT #1A  
TRACKING ONE-TIME AND STRUCTURAL CHANGES TO  
THE OPERATING BUDGET**

**Principal Agencies:** All County-funded agencies

**Origin of Project:** County Council

A fact, often cited by the Council in recent years, is that employee pay and benefits (total compensation) constitute the largest component of the County-funded agencies' operating budgets. Approximately 80% of the total tax-supported operating budget appropriation for the County Government, Montgomery County Public Schools, Maryland-National Park and Planning Commission, and Montgomery College is allocated for the pay and benefits of active employees.

In addition to employee pay and benefits, debt service remains a second significant, long term and generally inflexible component of the operating budget. Approximately 7% of tax-supported resources are allocated for debt service.

In recent years, the County Council and the respective governing boards of the County-funded agencies adopted some significant changes to employee compensation and, to a lesser degree the way and level in which debt is managed. Some of these changes were "one-time" (e.g., furloughs) and others were "structural" (e.g., changes to the employer/employee cost share for health benefits). Typically, one-time changes have a single year fiscal impact, while structural changes have a multi-year fiscal impact, sometimes increasing (or decreasing) substantially over time.

The purpose of this OLO project is to design a reporting structure for the Council's annual tracking, by agency, of one-time and structural changes (enhancements and reductions) made to:

- Employee Wages/Salaries;
- Group Insurance Benefits;
- Debt Service;
- Retirement/Pension Benefits; and
- Retiree Health Benefits.

OLO's product for the Council will include a list of the major compensation (pay and benefits) changes, staffing complement changes, changes to the way debt is serviced, and associated fiscal impacts adopted since FY10. Because there are different methods for quantifying the fiscal impact of the various compensation changes, the assumptions used to calculate the identified budget increases and savings will also be provided.

Based on feedback received from the Council on the initial tracking report of compensation changes made since FY10, OLO will revise (as needed) and finalize the methodology and format for the Council's tracking report going forward.

**PROJECT #1B**  
**HOURS WORKED BY MONTGOMERY COUNTY GOVERNMENT EMPLOYEES**

**Principal Agency:** County Government

**Origin of Project:** County Council

Typically, employers offer leave to their employees in forms such as holidays, vacations, sick leave, and personal leave. Employers can incur substantial costs due to employees' use of leave, such as increased overtime pay to cover required working hours. According to a 2009 Bureau of Labor Statistics report, paid leave cost state and local governments, on average, \$3.12 per hour (approximately 8% of total compensation).<sup>1</sup>

Montgomery County Government employees have access to numerous types of leave. Examples include:

- Annual Leave;
- Sick Leave;
- Disability Leave;
- Family and Medical Leave;
- Parental Leave;
- Administrative Leave;
- Military Leave;
- Leave without Pay;
- Holidays;
- Personal Leave Days;
- Paid Time Off; and
- Compensation Time.

The purpose of this project is to enhance the Council's understanding of County Government employees' net annual work hours (hours that employees work on regular pay), the use of leave, and changes in leave use patterns that impact personnel costs. In particular, a decline in the number of hours worked by employees can significantly impact both the use of overtime and the number of total staff required by the government to successfully complete its work. This report will examine ways to create a more efficient workforce through an increase in net annual work hours, reduction in overtime use, and/or more effective management of personnel. Specifically, the report will provide:

- A summary of the types of leave available to County Government employees;
- An overview of the personnel laws and regulations that shape the leave available to County Government employees, including changes over time of available leave;
- A description of the role and impact of collective bargaining in the establishment of leave;
- An analysis of County government employees' net annual work hours;
- A description of ways to increase employees' net annual work hours;
- An examination of other employee leave available in other jurisdictions; and
- Recommendations about specific actions that can be taken either in the collective bargaining process or through direct legislation that can positively impact average employee net annual work hours.

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<sup>1</sup> "Vacation, Holidays, and Personal Leave: Access, Quantity, Costs and Trends." United States Bureau of Labor Statistics Program Perspectives, Issue II. February 2009. <http://www.bls.gov/opub/perspectives/issue2.pdf>

**PROJECT #1C**  
**COUNTY FISCAL PLANNING AND RECENT CHANGES IN STATE LAW**

**Principal Agency:** Montgomery County Public Schools

**Origin of Project:** County Council

In 2010, the Council adopted a balanced Six-Year Fiscal Plan to help the County achieve a structurally balanced budget for future years. Recent actions by the Maryland General Assembly – including amendments to the maintenance of effort law and the transfer of teacher pension costs – will affect future year fiscal plans.

Building off of OLO's 2011 Structural Budget Deficit Project, this follow-up project will enable the Council to better understand the relationship between future year budget decisions and the fiscal conditions resulting from changes in State law.

**PROJECT # 2A**  
**ECONOMIC DEVELOPMENT INCENTIVES**

**Principal Agency:** County Government

**Origin of Project:** County Council

During FY10, OLO issued a report that provided an overview of the Department of Economic Development, the County's economic development strategic plan, and the general challenges associated with the design and evaluation of local government economic development programs. This FY13 OLO project follows up on that broader study, and the Council's subsequent discussions, by focusing on a specific component – the County's use of economic development incentives.

DED, in conjunction with the Department of Finance, administers two types of financial incentives designed to encourage and/or assist private employers to locate, remain, or expand operations in Montgomery County:

- Tax credit programs – the New Jobs and Enhanced New Jobs Tax Credits, the Enterprise Zone Tax Credit, and the Arts and Entertainment District Tax Credit; and
- Direct financial assistance – primarily provided through grants or loans from the County's Economic Development Fund (EDF).

The purpose of this OLO project is to enhance the Council's oversight of publically-funded economic development incentives by tracking and reviewing these awards and their results. Specifically, OLO will:

- Review the research literature on the use and evaluation of economic development incentives by local governments to identify any best practices or common themes;
- Review the origin and administration of the County's economic development incentives, including DED's explanation of how the design and use of the incentives align with the County's most recently approved economic development strategic plan;
- Describe DED's process (including changes implemented over time) for tracking and monitoring how recipients comply with award criteria;
- Review and analyze DED's financial, budget, and outcome data related to the tax credit and economic development fund programs, with a focus on conditional incentive awards (e.g., loans that convert to grants if the recipient meets specified conditions, or grants that are converted to loans if the recipient fails to meet specified conditions); and
- For a sample of tax credits and/or grants awarded within recent years, assess the measurable/reported results (or progress to date) with the original award criteria.

Based on the information reviewed, OLO will offer recommendations on how to best measure and assess the impact of economic development incentive projects.

**PROJECT # 2B**  
**GROWING SMALL BUSINESSES IN MONTGOMERY COUNTY**

**Principal Agency:** County Government

**Origin of Project:** County Council

The County Council funds several programs that focus, in whole or in part, on small businesses, including: the Local Small Business Reserve Program, business incubators, and a variety of programs within the Department of Economic Development's Division of Small and Minority Business Empowerment. Additionally, the Council established a Small Business Navigator position beginning in FY13 to assist small businesses to comply with County requirements and regulations.

The purpose of this OLO project is to enhance the Council's understanding of the role and influence of government economic development programs for small businesses in Montgomery County. OLO will contact a range of small businesses located in different geographic areas and from various ethnic communities in the County to seek feedback on how County programs and services for small businesses are used and what opportunities exist that would help small businesses grow in the County. Specifically, OLO will attempt to answer the following questions:

- What government programs have small businesses found useful in establishing, maintaining, or growing their business?
- What new or additional government strategies, programs, or incentives could encourage the development and/or growth of small businesses in Montgomery County?
- Do small business needs and use of programs vary by geographic location in the County?
- What small business-focused strategies or practices have proven effective in other local jurisdictions?

OLO will also consult with other stakeholders, such as the Montgomery Business Development Corporation and the Montgomery County Chamber of Commerce, to obtain their feedback on County services for small businesses.

In addition to summarizing the feedback and identifying common themes, OLO will offer recommendations that seek to enhance the Council's oversight role in providing effective services to small businesses in the County.

**PROJECT # 3A**  
**YOUTH WORKFORCE DEVELOPMENT IN MONTGOMERY COUNTY**

**Principal Agencies:** Montgomery College  
 Montgomery County Government  
 Montgomery County Public Schools

**Origin of Project:** Education and PHED Committees

According to the Governor's Workforce Investment Board, there is a mismatch between the needs of the workplace and the skills of young workers.<sup>2</sup> While job projections show that 65% of the 2020 workforce will require an associate's degree or higher credential,<sup>3</sup> "we are seeing more young people attempting to enter the work place lacking even basic academic and occupational competences."<sup>4</sup>

The mismatch between employer needs and employee skills combined with the decline in the economy has negatively impacted youth employment rates, particularly among dropouts. Both nationally and in Maryland, the teen employment rate has dropped by more than 10 percentage points over the past decade.<sup>5</sup> In Montgomery County, only 28% of all teens (age 16-19) and 52% of teen dropouts were employed in 2010 compared to 69% of all young adults (age 20-24).<sup>6</sup>

OLO recently completed the Alternative Education in Montgomery County report (OLO Report 2012-4) describing County-funded dropout prevention and recovery programs for at-risk youth. That report found limited access to career and technical education (CTE) opportunities for at-risk students including an absence of occupational training opportunities among six of the County's 14 alternative education programs reviewed. Two related concerns for the Education Committee are access to CTE and training opportunities for local youth who are on-track or have earned their high school credential and the transition of youth with disabilities into the labor market.

The purpose of this follow-up assignment is to describe the youth workforce development programs administered by County-funded agencies. This project will also describe programs aimed at preparing high school dropouts for the labor market and employing youth with disabilities. The Council has requested this follow-up report to improve their understanding and oversight of appropriations aimed at improving youth workforce development opportunities. Specific tasks for this project include describing:

- Labor market and youth employment data for the current economy;
- Projected labor market growth and employment demand;
- Local youth workforce development programs, including funding and enrollment;
- Perspectives on what works and opportunities to improve youth workforce development programs from a variety of stakeholders, including business and non-profit organizations; and
- Strategies in use in other jurisdictions to implement workforce development programs and leverage private sector partnerships.

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<sup>2</sup> Governor's Workforce Investment Board, Maryland's Emerging Workforce: Opportunities for Success, page 1.

<sup>3</sup> Blair, Amy et.al., "Sector Initiatives and Community Colleges" Aspen Institute, April 2007

<sup>4</sup> Governor's Workforce Investment Board, page 1.

<sup>5</sup> Job Opportunities Task Force, Issue Brief No. 4, A Young Workforce At-Risk, April 2009

<sup>6</sup> 2010 American Community Survey, U.S. Census Bureau cited by Job Opportunities Task Force, 2012

**PROJECT # 3B**  
**THE ACHIEVEMENT GAP IN MONTGOMERY COUNTY - AN FY13 UPDATE**

**Principal Agency:** Montgomery County Public Schools

**Origin of Project:** Education Committee

Closing the gap in achievement by student subgroups is a central tenet of school reform nationally and locally. The federal No Child Left Behind Act requires all student subgroups by race, ethnicity, and service group (e.g., special education) to demonstrate proficiency on state assessments by 2013-14. Maryland was recently awarded a waiver that requires schools to cut their NCLB achievement gaps in half over the next six years rather than eliminate them within the next two years. Yet, MCPS strives to close achievement gaps on a broader set of student measures, including narrowing the gap on “Seven Keys to College and Career Readiness” that include completion of Algebra I by the end of 8<sup>th</sup> grade and achieving a combined score of 1,650 or above on the SAT.

At the request of the County Council, OLO conducted a review of student performance data in 2007 to describe MCPS’ progress in narrowing the achievement gap by race, ethnicity, and service group status. In OLO Report 2008-2, OLO found that MCPS had made more progress in narrowing the gap among grade level measures than among above grade level measures of student performance. OLO also found that a significant gap by race persisted in rates of suspension and classification of students as gifted and in need of special education services due to having a disability.

The purpose of this follow-up project is to describe the progress that MCPS has achieved in narrowing the achievement gap since 2008 on a subset of student performance measures that include:

- Grade level measures: proficient scores on the Maryland State Assessments (MSA) in Grades 3-8 and rates of suspensions and academic ineligibility;
- College readiness (above grade level) measures: advanced scores on the MSA in Grades 3-8; completion of Algebra I by Grade 8; and high performance on AP, IB, SAT, and ACT<sup>7</sup>; and
- Career readiness measures: number of career and technology program concentrators and course of study completers.

Additionally, this project will provide an update on achievement data reported in OLO Report 2009-4 for students enrolled in MCPS’ high school consortia (Downcounty and Northeast Consortiums) compared to all MCPS high schools. Finally, this project will also review and synthesize:

- Data on MCPS graduation and dropout rates and how these measures are defined; and
- The research literature on best practices for narrowing the achievement gap.

This project will rely on extant data sources, publications, interviews with key MCPS staff, and additional MCPS data. The Council has requested this report to improve its understanding and oversight of appropriations aimed at narrowing the achievement gap and to provide a baseline of performance data for the current MCPS Superintendent, Dr. Joshua Starr.

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<sup>7</sup> Score at least a 3 on the AP, 4 on IB, a 1,650 on the SAT, and 24 on the ACT according to MCPS’ Seven Keys.

**PROJECT # 4A  
OPEN GOVERNMENT**

**Principal Agency:** County Government

**Origin of Project:** County Council

In recent years the federal government along with many state and local governments have been actively working to make data and information about government operations more available to the public. Behind this movement is the belief that a more open and transparent government will:

- Establish a system of transparency;
- Improve public trust and participation in government;
- Improve the efficiency of government; and
- Spur innovation among citizens and businesses that benefits both the public and private sectors.

For some time the Council has consistently advocated that the County government work to become more open and transparent to its residents. In support of this priority, OLO will examine how open government initiatives have been implemented elsewhere, offer recommendations about how open government can work to bring information and products to more and different Montgomery County residents, and investigate how open government can incorporate new technologies to foster growth in the business sector.

In addition, at the Council's urging, Department of Technology Services has contracted with SOCRATA to present data sets to the public in a consistent format that users can manipulate. This will allow government data to be used for a variety of purposes including ongoing monitoring of County use of taxpayer money, the private development of internet or mobile applications that take advantage of this data and other, perhaps yet unthought-of, initiatives. As part of this report, OLO will provide recommendations about which data sets should be prioritized as part of this effort.

**PROJECT #5A  
MUNICIPAL TAX DUPLICATION AND REVENUE SHARING**

**Principal Agency:** County Government

**Origin of Project:** County Council

In 2007, County Executive Leggett created the Municipal Revenue Sharing Task Force and charged it with reviewing municipal tax duplication and revenue sharing issues. The Municipal Revenue Sharing Task Force met 19 times between May 2007 and July 2008, and released its Final Report on July 9, 2012.

The Task Force's Final Report: (1) outlines the current law, policies and practices of the current tax duplication system; (2) discusses issues and concerns of both municipalities and the County in regards to the tax duplication system; and (3) summarizes issues surrounding existing County contractual payments and operating grants/financial subsidies.

The Task Force tackled a comprehensive list of municipal and County issues. Although it reached substantial agreement in some areas, it was unable to reach consensus in others. According to the Final Report, six areas of ongoing disagreement are: property tax duplication, county administrative costs, county debt service costs, highway user revenues, the metropolitan district tax (park tax), and police services (other than Takoma Park). The Final Report provides more detail about the County and municipal positions for these six areas.

The Council's Government Operations Committee will begin its review of the issues in the Task Force Report on July 16. OLO will work collaboratively with Council staff to support the GO Committee's review of the Task Force Report. This project represents the allocation of OLO staff time to support Council staff. The specific tasks and analysis work to be performed by OLO staff will be determined in consultation with Council staff as the work of the GO Committee proceeds.

**PROJECT # 5B**  
**UTILITY AND TRANSPORTATION WORK IN COUNTY RIGHTS-OF-WAY**

**Principal Agency:** County Government

**Origin of Project:** County Council

The County Government Department of Transportation (DOT) Division of Highway Services builds, reconstructs, and repairs County roads under its jurisdiction. At the same time, the County Government's Department of Permitting Services (DPS) regulates and issues permits for all utility construction, reconstruction, or maintenance activities performed in County rights-of-way (ROW) under DPS' jurisdiction. Several utilities maintain infrastructure within and perform work in County rights-of-way, including Washington Suburban Sanitary Commission (WSSC), Washington Gas, and Potomac Electric Power Company (PEPCO). DPS sets standards and issues permits for this work.

This OLO report will examine where opportunities exist to improve coordination between DPS, DOT, WSSC, PEPCO, and State agencies for work performed in County Rights-of-Way. OLO will examine the County Government's processes for:

- Granting County Government approval for work performed in County ROWs,
- Coordinating work by multiple entities in individual ROWs, and
- Ensuring that entities comply with County Government requirements for work in ROWs.

OLO will explore past work and coordination in County Government's ROWs and identify opportunities to improve coordination in order to maximize County Government resources.

**PROJECT #6A**  
**MANAGEMENT OF THE COUNCIL'S INDEPENDENT AUDIT CONTRACTS**

**Principal Agency:** County Government

**Origin of Project:** Montgomery County Code, Chapter 29A (§29A-5(b)(9))  
Council Resolution 12-154

Section 315 of the County Charter requires the Council to contract with a certified public accountant to perform an annual independent audit of the County Government's financial statements. The Council also contracts for the annual audit of the financial statements of the employee retirement plans and the Montgomery County Union Employees Deferred Compensation Plan.

Since 1991, the Council has assigned the Office of Legislative Oversight the responsibility to act as the Council's contract administrator and provide support to the Council during the period of audit engagement. OLO carries out these responsibilities with oversight and guidance from the Council's Audit Committee. The Audit Committee consists of the members of the Government Operations and Fiscal Policy Committee, with the Council President and Vice President serving as *ex officio* voting members.

The FY13 Independent Financial Audit NDA funds the independent audits of the FY12 financial statements issued by the County Government, the employee retirement plans, and the Montgomery County Union Employees Deferred Compensation Plan. FY13 is the first year of the Council's four-year contract with BDO USA, LLP to provide audit services.

**PROJECT # 6B**  
**STAFF SUPPORT FOR THE COUNCIL'S AUDIT COMMITTEE**

**Principal Agencies:** All County-funded agencies

**Origin of Project:** Council Resolution 16-826

Council Resolution 16-826, adopted January 27, 2009, calls upon the Council's Government Operations and Fiscal Policy (GO) Committee "to continue to strengthen the Council's independent review and oversight of the County's financial reporting, management control, and audit activities." When performing these functions, the GO Committee meets as the Council's Audit Committee, with the Council President and Vice President serving as *ex-officio* voting members. The resolution requires the GO Committee to meet as the Council's Audit Committee at least four times a year.

Council Resolution 16-826 assigns OLO the responsibility to coordinate staff support for the GO Committee when it meets as the Audit Committee. During FY13, the Committee is scheduled to receive regular updates from the Office of the Inspector General and the Office of Internal Audit, review the implementation of Oracle business software portion of the County Government's Enterprise Resource Management system, submit an end-of-year report to the Council, and address other issues as needed.

As directed by Council resolution, OLO will ensure that the Committee receives "assistance from the Council staff, the Office of the Inspector General, Executive Branch and other County agency staff, and contractors with appropriate expertise" in carrying out its "oversight of financial reporting and risk assessment."

**PROJECT # 6C**  
**ASSIST WITH REVIEW OF THE FY14 OPERATING BUDGET**

**Principal Agencies:** All County-funded agencies

**Origin of Project:** County Council

During the spring of 2013, OLO staff will assist Central Council staff to prepare analyses for Committee and Council work sessions on the FY14 operating budget. This project is similar to OLO's operating budget-related assignment in recent years. For this portion of the FY13 Work Program, the OLO Director will work collaboratively with the Council Staff Director to identify specific budget areas for OLO staff assistance. Priority consideration will be given to topics that OLO has studied before.

Additionally, OLO will assist County Council on additional budget related analysis throughout the year. OLO will be on call to provide support and analysis for a limited number of tasks that may include fiscal impact statements, collective bargaining provisions that result from labor negotiations, non-competitive awards, or unanticipated items that arrive in agencies' budget proposals.

**PROJECT # 6D**  
**ASSIST WITH IMPLEMENTING RECOMMENDATIONS OF THE TASK FORCE ON  
EMPLOYEE WELLNESS AND CONSOLIDATIONS OF AGENCY GROUP INSURANCE  
PROGRAMS**

**Principal Agencies:** All County-funded agencies

**Origin of Project:** Council Resolution 17-373, *Implementation of Recommendations from the Task Force on Employee Wellness and Consolidation of Agency Group Insurance Programs.*

This project follows up on OLO's FY12 assignment to provide staff support to the Task Force on Employee Wellness and Consolidation of Agency Group Insurance Plans.

Working collaboratively with Council staff, OLO staff will assist with the implementation of Council-endorsed recommendations related to wellness programs, disease management, and consolidation of group insurance spending data across agencies as outlined in Resolution No. 17-373, which was adopted on March 27, 2012.