



HARFORD COUNTY, MARYLAND

Office of the County Auditor

AUDIT OF ETHICS DISCLOSURES AND RELATED PROCESSES

Report Highlights

Report Number: 2015-A-03

Date Issued: 07/30/2015

Why We Did This Audit

This audit was conducted as part of the County Auditor's risk-based Annual Audit Plan approved by the County Council for FY2015.

What We Found

Controls are not adequate to ensure compliance with the Ethics Code.

What We Recommend

Management should implement the recommended changes to ensure all individuals file disclosure forms and Ethics Board member reviews are complete and documented.

Council Members and County Executive Glassman:

In accordance with Section 213 of the Harford County Charter, we have performed an audit of the Financial Disclosure Statement filing and review process. The results of that audit, our findings and recommendations for improvement are detailed in the attached report. We would like to thank the members of management for their cooperation during the audit.

The audit found controls could be improved to ensure compliance with the Harford County Ethics Code. Specifically, Board Members did not document their review of all Financial Disclosure Statements to ensure compliance with the Ethics Code.

The audit team is available to respond to any questions you have regarding the attached report.

Sincerely,

Chrystal Brooks, CPA

Chrystal Brooks
County Auditor

cc: Mr. Billy Boniface, Director of Administration
Ms. Melissa Lambert, County Attorney
Mr. Ted Pibil, Director of ICT



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REVIEW RESULTS

We have audited the Ethics Disclosures and related processes for the period of 1/1/2013 through 4/30/2015. The Code of Ethics requires certain elected and appointed officers and employees of the County and persons appointed to serve on boards or commissions to disclose any financial interests in entities doing business with, or regulated by, the County. The Board of Ethics reviews these statements, advisory opinion requests and complaints of potentially conflicted relationships.

Our opinion, based on the evidence obtained, is controls could be improved to ensure all financial disclosure statements are completed and approved in accordance with the Ethics Code. The audit approach focused on testing the key controls that address management's objectives for the process. Conclusions drawn are below.

Risk	Expected Control	Conclusion
Employees fail to disclose all financial relationships.	N/A There is no way to verify the completeness of the information on the disclosure letter. This process is heavily reliant on users' compliance with guidelines.	Not rated
Required persons do not file disclosure forms.	Employees in the Financial Disclosure Filing System are verified against a list of employees in grade MG1 or higher and appointed officials.	Needs Improvement
Employees do not disclose a financial interest because they are unaware of the County's relationship.	List of vendors are updated each year and a review is in place to ensure the list is complete in the financial disclosure filing system.	Needs Improvement
Ethics Board members lack appropriate objectivity to carry out their duties.	The financial disclosure statements, advisory opinion requests and complaints are reviewed by all five ethics board members on an individual basis. Multiple review increases transparency within the process.	Satisfactory

Risk	Expected Control	Conclusion
Inappropriate relationships are left undisclosed or undetected if officials who leave office are not required to file within 60 days of termination date as required in the Ethics Code.	Department of Law and Human Resources coordinate to ensure required filers are identified during the separation process.	Satisfactory

Areas for improvement are described in the Findings and Recommendations section of this report. Management has been provided an opportunity to respond to this report; the response provided concludes this report.

FINDINGS AND RECOMMENDATIONS

Finding Number: 2015-A-03.01 Documentation of Board Member Approval

Board of Ethics members did not always document their review of the financial disclosure forms to ensure compliance with the Harford County Ethics Code.

Analysis: The Harford County Ethics Board consists of 5 members who are required to review financial disclosure statements for completeness and compliance with the provisions with the Harford County Ethics Code. While the board members have the ability to approve each electronic statement in the Financial Disclosure Filing System, we were not able to confirm this review by each board member. For example, we noted one of the board members did not document their review of the 2013 electronic financial disclosure forms at all.

Some employees and elected officials do not utilize the Financial Disclosure Filing System Database and file using a paper copy of the disclosure form. In these cases, the board members do not document their review of each financial disclosure statement. Three of the five board members sent an email to the Department of Law indicating completion of their review; however, we were unable to determine if the review was completed by all board members. If the board members do not review the disclosures, potential conflicts of interests could go undetected. According to the Ethics Code, "The Board shall keep accurate and complete records of its business...".

Recommendation: We recommend the Harford County Ethics Board members consistently document their review of all the financial disclosure statements to ensure compliance with the Harford County Ethics Code.

Management Response: Management disagrees with the findings and recommendations based on the following reasons. The Harford County Ethics Board acts as a body. A majority of the members of the Board must agree in order for the Board to take action. The Harford County Ethics law requires that "the Board shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies (§ 23-6 H (1)). For a statement to be determined to be deficient or failing in any manner, the Board (not an individual member) would need to make that determination. In the review of the disclosure statements, the Auditor was provided the background material that shows that four of the five members of the Board clearly reviewed all the electronically filed statements and that three members confirmed through emails that they had reviewed the financial statements submitted through the pdf format. The Board as required by law has reviewed the submitted financial disclosure statements.

As for further investigation of any rejected schedules. If the Board (not a single member) rejects a financial disclosure statement, the Board would notify the individual regarding the omission or deficiency as required by the law (as has happened in the past).

Expected Completion Date: N/A

Finding Number: 2015-A-03.02 Board Procedures for Complaints and Requests for Opinions

The Board of Ethics does not have written procedures for reviewing complaints and requests for opinions.

Analysis: Section 23-3 of the Ethics Code requires the Harford County Ethics Board to develop procedures and policies for advisory opinion requests and the processing of complaints. Even though section 23-4 of the Ethics Code has procedures for complaint and opinion requests, they should be supplemented or expanded upon in more detail. In addition, the Ethics Code states, "the Board shall adopt, in accordance with Section 807 of the Charter, rules of procedure for its meetings, investigations and hearings." These procedures should ensure consistency with how each complaint and request is handled. We noted that rules of procedure have not been documented.

Recommendation: We recommend the Board develop procedures and policies for advisory opinion requests and complaints as required by the Harford County Ethics Code.

Management Response: Management agrees that the Board needs to adopt policies and procedures for advisory opinions requests and complaints. However, management notes that the authority of the Auditor under Resolution 29-14 was to conduct a performance audit on the ethics disclosure procedures and related process and Management points out that the scope did not include advisory opinions or complaints (although the Auditor requested and was given access to all advisory opinions issued and complaints that resulted in findings of a violation).

Expected Completion Date: 9/30/2016

Finding Number: 2015-A-03.03 Completeness of Vendor and Employee Lists

Vendor and Filer lists are not verified for completeness in the Disclosure system.

Analysis: For purposes of reporting potential conflict of interests, certain individuals are required to complete a financial disclosure statement on an annual basis. These individuals are required to report any financial interests they have with any company doing business with the County. The Law Department is charged with administration of the program and is the business owner of the Financial Disclosure Filing System database. The Law Department must update the database each year with a current list of individuals who are required to file. The Law Department receives a list of employees meeting the filing requirements from the Department of Human Resources. Required filers include Directors of County departments and all employees in the classified service at grade level MG1 or above. In addition, members of a number of County Boards are required to file a financial disclosure. However, the required Board Members are not included in the disclosure system or in the manual tracking log maintained by the Department of Law. As a result, it is difficult to ensure all individuals who are required to file statements filed them. We noted there are approximately 45 board members who are required to file annually.

To facilitate proper reporting, the disclosure system must include an accurate list of vendors/County relationships for reference. The Law Department receives a report of vendors paid over \$5,000 during the year from the Accounts Payable System and the Purchase Card System. One individual in the Law Department manually reviews, filters and updates the vendor and employee listing in the Financial Disclosure Database. There is no subsequent review to ensure the lists are complete.

We found that 18 vendors who were paid over \$5,000 in fiscal year 2014 were not included in the financial disclosure database. As a result, potential conflicts of interest might be undetected or undisclosed.

Recommendation: To ensure the completeness of the vendor and employee lists, we recommend a review of the data entered before the system becomes available to users. In addition, to facilitate the administration of this process, management consider including members of other boards who are required to file in the Financial Disclosure Filing System and using the system to track any paper forms that are filed. .

Management Response: Management disagrees with the findings and recommendations based on the following reasons. The initial list of individuals required to file statements is generated by the Department of Human Resources. The list created by the Department of Human Resources is then reviewed by the Department of Law to ensure that all individuals required to file disclosure statements are included. Adding another level of review is unnecessary. The law clearly identifies those individuals required to file and having the list reviewed by two different sources to ensure compliance is sufficient. As for the members of those designated County Boards that are required to file, those members do file financial disclosure statements. The disclosure statements filed by the board members contains a statement that each filer must sign verifying that they have no interest, employment, indebtedness and receive no gifts that might constitute a prohibited interest, conduct or gift under the Harford County Code. The statement is signed under a penalty of perjury that the information contained in the statement is true and correct. All members serving on those County Boards that are required to file financial disclosure statements under law serve as volunteers on those boards. Management appreciates the time commitment these individuals provide to serve the citizens of the County. Management is also well aware that requiring citizen volunteers to file a financial disclosure statement identical to that filed by employees and elected officials would amount to an invasive and unduly burdensome process and could possibly reduce the number of volunteers willing to serve the County. With these concerns in mind, § 23-8 was enacted to allow these individuals to be exempted from the onerous financial disclosure provisions under the law. The modification allowing board members to file such a statement has been in effect since at least 2008.

As for the list of vendors, there is a sufficient review. The initial vendor list is generated by The Department of Treasury and includes all payees receiving \$5000 or more from the County. The list of vendors from the Department of Treasury is then supplemented with a list of vendors receiving more than \$5000 under the pcard system; this listed is provided by the Department of Procurement. The Auditor suggests that local governments and not-for-profits be disclosed under the vendor section. The model ethics code developed by the Maryland State Ethics Commission for use by local governments specifically exempts from the definition of business entity any governmental entity. In keeping with the model standards established by the State Ethics Commission, we have excluded governmental entities. As for not-for-profit entities, those are included in the list of vendors. As for the Auditors finding that eighteen vendors were not included (of those entities identified three

were associations whose members are all or primarily local governments whose sole function is to act on behalf of the local governments and at least two others were associated with a workers compensation claim). In total there are approximately 1360 vendors submitted, the percentage of vendors missed amounts to approximately one percent and in Management's opinion such a low percentage is negligible. Finally, regarding the recommendation that the Financial Disclosure Filing System designate if a user filed a paper statement or modified statement instead of electronic, Management finds this unnecessary. The purpose of the ethics law is to have those individuals that are required to file submit a disclosure statement. The Law Department keeps a log of all the individuals that are required to file and the Department updates that file for each disclosure statement submitted. The format under which the disclosure statement is submitted (electronic or pdf) does not appear to be relevant as long as the statement is submitted.

Expected Completion Date: N/A

MANAGEMENT RESPONSE

Prior to 2012, the entire review process and filing of financial disclosure statements required all filers to file paper statements. All the statements were collected and then these statements were submitted to the members of the Ethics Board who would review the statements and send the submittals to the next member of the Board to review. Since 2012, the Office of Information and Communication Technology has worked diligently to devise not only an electronic filing system for filers but also an electronic review system for the members of the Ethics Board. The volunteer members of the Ethics Board, along with their other duties, spent time with the staff of ICT to learn the new electronic review process. Management would like to thank both ICT and the members of the Ethics Board for their continued hard work and willingness to improve the financial disclosure filing process.

BACKGROUND INFORMATION

PROGRAM DESCRIPTION AND KEY STATISTICS

The Harford County Ethics Board is charged with administering the Harford County Code of Ethics. The Code of Ethics requires certain elected and appointed officers and employees of the County and persons appointed to serve on boards or commissions to disclose any financial interests he/ she has with entities doing business with, or regulated by, the County. The Department of Law serves as the custodian of the financial disclosure statements and the Ethics Board reviews all disclosure statements for potential conflicts of interest and compliance with the Ethics Code. To enforce the Ethics Code, the Board has the authority to charge a late fee of \$2 per day for failure to file timely.

The Ethics Board is also charged with reviewing any request for an advisory opinion or complaint regarding ethics. They issue a formal opinion for both. The financial disclosure forms and Ethics Board opinions are available to the public upon request.

REVIEW OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this audit was to ensure compliance with the Harford County Ethics Code. Specifically, we sought to determine if financial disclosure statements were completed by individuals required by the Ethics Code and to verify approval by the Ethics Board. Our review was limited to information that each individual disclosed since there is no procedure for independent confirmation of the self-reported financial disclosure statement.

The audit focused on activity during the period of 1/1/2013 through 4/30/2015. Our audit procedures included interviewing personnel, observation and testing. Specifically, we met with personnel from the Department of Law and Department of Information and Communication Technology to gain an understanding of the Financial Disclosure Filing System and filing process. We confirmed access to the financial disclosure filing system was properly restricted. We verified the listing of vendors in the financial disclosure filing system was complete by comparing it to a list of vendors paid over \$5,000 during 2014 through Purchase Cards and Accounts Payable transactions. In addition, we verified the list of filers for 2013 and 2014 were complete by comparing them to a list of employees in grade MG1 or above and appointed/elected officials. We tested a sample of completed financial disclosure forms including separated officials and members of the Board of Estimates, Board of Ethics, Board of Library Trustees, Personnel Advisory Board and Planning Advisory Board to ensure they were completed and approved on a timely basis. For the officials who were terminated during 2014 or 2015, we confirmed that a final financial disclosure statement was completed within 60 days of the termination date. For the sampled board members, we noted none of the board members disclosed any financial

interests, including real property and employment. These Board Members file a modified version of the financial disclosure statement as allowed by Section 23-8 of the Ethics Code. In this regard, the letter requesting this financial disclosure information states “**If** you believe that your financial interest, employment, indebtedness, or gifts received **do not** conflict with your responsibilities as a board member there is no need for you to complete the entire form” and specifically highlights the form field stating “**do not** have any conflicts”. Both the form and the letter imply that non-disclosure should be the default. Management may want to consider, whether this approach addresses its objectives.

Harford County management is responsible for establishing and maintaining effective internal controls. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets and compliance with applicable laws, rules and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected.

The audit was performed in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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