



CITY OF PHILADELPHIA

BOARD OF ETHICS
PACKARD BUILDING
1441 Sansom Street
2nd Floor
Philadelphia, PA 19102-3026
(215) 686 - 9450
FAX 686 - 9453

September 26, 2011

The Honorable Michael Nutter
Mayor
City of Philadelphia
215 City Hall
Philadelphia, Pennsylvania 19107

Re: Board of Ethics FY11 Annual Fiscal Report

Dear Mayor Nutter:

Section 3-806(k) of the Philadelphia Charter requires the Board of Ethics to submit an annual fiscal report to you, City Council, the Chief Clerk of City Council, and the Department of Records no later than three months after the end of each fiscal year. A copy of the Ethics Board's Fiscal Report for Fiscal Year 2011 (FY11) is attached which indicates that expenditures totaling \$679,723 were made, as follows:

Table with 2 columns: Class, FY11 Total Amount Spent. Rows include: 100 - Salaries (\$642,749), 200 - Purchase of Services (\$26,097), 300/400 - Materials, Supplies, & Equipment (\$10,877), Total: (\$679,723)

FY11 Activity

The Board accomplished major initiatives in FY11 (summarized below), but became acutely aware that the breadth of its work, which now includes responsibility for the City's new Lobbying Law, will be severely affected unless additional funding for staff is provided in Class 100.

Training: Board staff conducted 30 in-person training sessions that were attended by more than 400 people. Training sessions were offered in ethics, campaign finance, political activity restrictions, and the financial disclosure process, and new materials were designed by staff for each of the four types of training.

During FY11, the Board recognized the need for early campaign finance training in advance of the May 2011 primary election so that candidates and treasurers would know the laws and avoid making mistakes. Training announcements were therefore sent to hundreds of individuals who might be affected by the campaign finance laws. Five of the Board's eight staff members were

part of the campaign finance training team and participated in the sessions that were interactive and always provided time for participants' questions. Campaign finance training continues with three training sessions to be offered before the November general election. Ethics training in FY11 focused on new City employees and, as with campaign finance training, the goal of each ethics training session is to prevent potential violations of the Ethics Code.

New Board Regulation No. 8 on political activity restrictions applicable to City employees (discussed below), became effective on March 28, 2011 and created an immediate and pressing demand for political activity training before the primary election. Board staff subsequently developed completely new training materials and conducted training sessions for Human Resources Managers, departmental ethics trainers, City Council staff, and other City officials.

In short, the Board designed and offered a full training calendar to hundreds of individuals in FY11, and the demand for Board training will only increase in FY12 as we add mandatory lobbying training to our training schedule. Our small staff was continually challenged to re-prioritize other major activity to meet this demand. As an example, the Board's progress toward an online ethics training pilot project has been further delayed because design of the training content and testing are extremely staff-intensive activities.

Regulations: The Board engaged in three demanding and complex regulatory projects during FY11. The first involved the Board's existing campaign finance regulation (Regulation No. 1) and followed enactment of major amendments in June 2010 to the City's campaign finance law. The second dealt with political activity restrictions applicable to City employees and board and commission members and required promulgation of a complex new regulation (Regulation No. 8). Both regulations were critically important in the context of the 2011 election cycle and were designed to provide "one-stop shopping" to compile all the rules about campaign finance and political activity restrictions in one place. The third project, to implement the City's new lobbying law, is on-going.

Regulation No. 1: The Board's existing Campaign Finance regulation, Regulation No. 1, had become effective in 2007 and dealt only with the electronic filing requirements of City Code Chapter 20-1000. Based on its experiences in the 2007 and 2009 elections, the Board understood that a completely new campaign finance regulation was needed to provide detailed guidance about the City's campaign finance law to candidates and committees prior to the May 2011 primary election. Board staff therefore completely re-wrote Regulation No. 1 to clarify and interpret both existing and new provisions of the City's campaign finance law and to provide a practical manual for compliance with the law. Among the many subjects covered by Regulation No. 1 were: application of the contribution limits, procedures for return of excess contributions, the process for retiring campaign debt, use of checking accounts, requirements for Litigation Fund Committees, and penalties for violations of the Campaign Finance Law.

After a September 8th public hearing on Regulation No. 1, it was modified and adopted by the Board on September 15, 2010 and became effective on September 27, 2010, well before the 2011 election cycle. Regulation No. 1 was amended again in FY11 to reflect further revisions to the campaign finance law and these amendments became effective on August 12, 2011.

Regulation No. 8: In the Board's second complex rulemaking project in FY11, staff members researched and drafted Board Regulation No. 8 concerning political activity by City employees and board and commission members. This project involved five staff members and took more than six months. Regulation No. 8 provides comprehensive guidance about permissible and impermissible political conduct for City employees and board and commission members.

Regulation No. 8 clarified that political activity by a City employee while on duty or using City resources is strictly prohibited and also that a City employee may not collect, receive, or solicit contributions intended for a political purpose. The regulation provided a detailed list, with examples, of activity that City employees may engage in as permissible personal political expression, and further clarified which restrictions apply to employees of City Council. Regulation No. 8 also distinguished between City boards and commissions that exercise significant powers of government and are subject to all political activity restrictions, and those boards and commissions that are advisory and are only subject to some restrictions. The regulation became effective March 28th, after extensive input from key constituents and in time to provide guidance before the primary election.

Regulation No. 9: To draft a completely new lobbying regulation, in FY11 Board staff began the detailed process of reviewing Chapter 20-1200 of the Philadelphia Code, the City's new lobbying law, and regulations in other jurisdictions, including Pennsylvania, to draft new Regulation No. 9, Lobbying. The result was a draft of a comprehensive regulation to provide "one-stop shopping" for information about lobbying in Philadelphia. Regulation No. 9 was approved by the Board for public comment on May 11th. The regulation and notice of the June 15, 2011 public hearing were advertised on May 20th. Testimony and many written comments to proposed Regulation No. 9 were received. In addition, the Philadelphia Bar Association filed suit against the Board to enjoin implementation of the regulation.

The suit was withdrawn after discussions with the Bar Association, and the Board and staff have worked continuously to resolve the concerns raised not only in the lawsuit but also in the comments received from other stakeholders. As a result, at its September 21, 2011 meeting, the Board approved Regulation No. 9 with significant modifications.

Preparation for the 2011 Election cycle: In addition to training, discussed above, Board staff took many steps in FY11 to promote compliance with the campaign finance law. Reminder emails were sent to 275 people on April 28th to alert them to the May 6th deadline to file Cycle 2 campaign finance reports. The reminders included information about the electronic filing support center that is available to candidates and committees. A second email was sent on May 3rd to candidates and committees reminding them about the 24-hour and independent expenditure reporting requirements. In the four weeks before the primary election, staff responded to more than 100 campaign finance calls and emails.

In another important campaign finance matter, Board staff worked with the Records Department before the May election to enhance the online search tool for campaign finance information. The search process was upgraded, and a member of the public can now do "quick searches" of the campaign finance database for contributions made by a particular contributor in a given year and contributions to a particular candidate or committee in a given year. The results are clearly displayed and can be downloaded with one click to a spreadsheet. Board staff worked with

Records Department and Commissioner Joan Decker and Chief Integrity Officer Joan Markman to accomplish these improvements.

Implementation of the New Lobbying Law: As noted above, Regulation No. 9 was a significant project in FY11. The second major component of administration of the new lobbying law is mandatory electronic filing of registration statements and expense reports by lobbyists, lobbying firms, and principals. As a result, staff began in August 2010 to prepare specifications for the online filing system. However, there was no funding in the Board's FY11 budget to design and build the mandatory electronic filing system, which was estimated to cost more than \$300,000. The Board was advised in late December that funding was obtained through the City's Capital Program budget for the Division of Technology to design and support the electronic filing system. When the vendor was selected by DOT in March 2011, all specifications and requirements were ready.

Our staff continues to work with DOT and the vendor on testing of the online lobbying registration software. This project was delayed by the unavailability of FY11 funding and has been further delayed by design and technical problems. Board staff has spent and continues to spend countless hours on the design and testing of the complex system.

We must also design training and new materials for the lobbyists, firms and principals who will register and report under the new law and must also train our own staff to support this new law. We estimate that there may be 200 or more lobbyists who will be required to attend training in FY12, and lobbying training must be offered on an on-going basis as new lobbyists register with the Board.

Advice: City officials, employees, and board and commission members have come to appreciate the value of the Board's advice and continued to seek the Board's advice in FY11 concerning compliance with the City's Public Integrity Laws. The Board issued one Formal Board Opinion in FY11 and 18 Advices of Counsel. There were also dozens of responses to requests for informal general guidance through the Board's "Ask for Advice" website feature. Among other topics, advice in FY11 concerned potential conflicts of interest, acceptance of gifts, post-employment restrictions, outside employment and permissible political activity.

Ethical government in Philadelphia is advanced each time the Board issues a Formal Opinion, an Advice of Counsel, or informal general guidance.

Financial Disclosure: In FY11, the Board continued its outreach efforts to thousands of City officials, employees, and board and commission members to remind them of their financial disclosure obligations. Email reminders were sent to these individuals explaining the financial disclosure requirements and encouraging them to contact the Board if they needed assistance. The reminders resulted in hundreds of phone calls from people who need assistance and guidance.

During FY11, an important upgrade to the financial disclosure electronic system, administered by the Records Department and the Board, introduced a new electronic signature process which permitted completely electronic filing of financial disclosure statements. Our staff worked with the Records Department and its vendor on this enhancement to the online financial disclosure

filing system, and filers may now complete their financial disclosure obligation without any paper forms. Board staff conducted testing of the new e-signature process and reviewed and edited the online filing instructions and software screens.

Enforcement: In FY 2011, the Board entered into two settlement agreements, one with Renee Tartaglione and the other with Karen Brown. Tartaglione agreed to pay \$2,700 for her admitted violations of section 10-107 of the City's Home Rule Charter. Brown admitted to violations of Code section 20-1003, but because she had self-reported the violations to the Board, no monetary penalty was imposed.

FY12 Fiscal Challenges

This summary of the Board's FY11 activity makes it abundantly clear that more staff is needed to meet the Board's vast responsibilities. Most importantly, without additional funding in Class 100 for staff, the Board will be forced to delay or eliminate projects and initiatives.

The Board continues to be concerned that, because it is not represented in all matters by the City Solicitor, the FY12 budget is inadequate to hire outside counsel should the Board be faced with an outside legal challenge. As the Board has noted in the past, it has been fortunate to be represented in such challenges by *pro bono* counsel, but at some point generous volunteer legal services may no longer be available. If faced with a legal challenge and without *pro bono* counsel, the Board and its mandates will be severely disadvantaged because the total FY12 Class 200 appropriation of \$96,000 will not begin to meet the costs of outside legal services. We will be forced to further divert staff resources from training, advisory, or enforcement activity in order to permit existing staff to focus on litigation.

Conclusion

The Board is proud of its proactive accomplishments in FY11 in outreach, training, regulations and other projects. Each of these initiatives contributed to the pursuit of enhanced ethics and accountability in Philadelphia government. The Board wishes to continue its increasing and significant role in promoting honesty, integrity, and transparency in City government.

Sincerely,



Richard Glazer
Chair

cc: City Council Members
Michael Decker, City Council Chief Clerk
Joan Decker, Records Commissioner
Joan Markman, Chief Integrity Officer

**Board of Ethics
FY11 Fiscal Report Detail**

Class 100 – List of Positions

Class	Name	Title	Annual Salary	Actual Salary
101	Baugh, Elizabeth	Information Specialist	34,000	19,217.00
101	Cooke, Michael	Director of Enforcement	95,000	95,000.00
101	Creamer, Jr., J. Shane	Executive Director	124,800	124,800.00
101	Formica, Tina	Administrative Assistant	49,332	49,332.00
101	Massar, Nedda	Deputy Executive Director	118,000	118,000.00
101	Meyer, Evan	General Counsel	114,400	114,400.00
101	Nayak, Maya	Associate General Counsel	95,000	95,000.00
101	Vasquez, Hortencia	Clerical Assistant	27,000	27,000.00
	Total Class 100			642,749.00

Class 200 – Purchase of Services

Class	Class Description	Vendor	Vendor Description	Amount Paid
210	Postal Services	Time Cycle	Delivery Service	3312.99
210	Postal Services	UPS	Delivery Service	23.48
211	Transportation	American Express	Travel	498.00
211	Transportation	Even Meyer	Lodging Reimbursement	621.75
240	Advertising & Promotional Activities	Philadelphia Newspapers	Publication of Plain English	4132.13
250	Professional Services	Paul J. Jablow	Consultant	4462.50
250	Professional Services	Sterling Infosystems	Consultant	122.75
255	Dues	The Council on Governmental Ethics Laws	Membership Dues	445.00
256	Seminar & Training Sessions	The Council on Governmental Ethics Laws	Annual Conference	2650.00
256	Seminar & Training Sessions	Law Department	Continuing Legal Education Classes	1014.00

**Board of Ethics
FY11 Fiscal Report Detail**

258	Court Reporting	Class Act Reporting	Court Reporting	5088.30
260	Repair & Maintenance Charges	Xerox	Copier Maintenance	2105.81
260	Repair & Maintenance Charges	Department of Records	Annual Report	202.00
266	Maintenance & Support – Computer Hardware & Software	Insight Public Sector	Software Maintenance	1325.53
299	Other Expenses	Citizens Bank	Copy Charges	93.25
	Total Class 200			26,097.49

Class 300 & 400 – Materials, Supplies & Equipment

Class	Class Description	Vendor	Vendor Description	Amount Paid
304	Books & Other Publications	West Publishing	Books	1171.00
304	Books & Other Publications	American Legal Publishing	Books	685.00
320	Office Materials & Supplies	Nestle Waters North America	Water	74.88
320	Office Materials & Supplies	International Paper Co	Paper	2599.34
320	Office Materials & Supplies	Staples	Office Supplies	3000.00
320	Office Materials & Supplies	Department of Records	Annual Report	252.00
325	Printing	PhilaCor	Envelopes	200.00
420	Office Equipment	HSM of America	Shredder	832.50
427	Computer Equipment & Peripherals	Dell Marketing	Computers	1670.00
427	Computer Equipment & Peripherals	PC Specialists	Printers	392.00
	Total Class 300/400			10,876.72

Total FY11 Expenses = \$679,723.21