COLORADO INDEPENDENT ETHICS COMMISSION

FY2012 BUDGET REQUEST

Matt Smith, Chair
Dan Grossman, Vice Chair

Jane T. Feldman, Executive Director

Independent Ethics Commission FY12 Budget Request

EXECUTIVE SUMMARY:

The Colorado Independent Ethics Commission ("Commission" or "IEC") was created in 2006 pursuant to a voter-initiated amendment to the Colorado Constitution. *See*, Article XXIX, and C.R.S. §24-18.5-101 *et seq.* The Commission held its first meeting in December, 2007, and issued its first opinion in October 2008.

Pursuant to the constitution and the enabling statute, the IEC is authorized to "hear complaints, issue findings and assess penalties on ethics issues arising under article XXIX and other standards of conduct and reporting requirements as provided by law" and "to issue advisory opinions and letter rulings on ethics issues arising under article XXIX and other standards of conduct and reporting requirements as provided by law." C.R.S. §24-18.5-101(4)(a) and (b).

The Commission consists of five members appointed as follows, one each by the Governor, the Speaker of the House, the President of the Senate, the Chief Justice of the Supreme Court, and one by the other four Commissioners. The fifth member must be a local government employee or official. No more than two members of the Commission may be from the same political party. The current members of the Commission are Matt Smith, chair; Dan Grossman, vice-chair; Sally H. Hopper, Larry R, Lasha, and Roy V. Wood. The terms of Commissioners Smith, Lasha and Wood expire on June 30, 2011.

In the first year of operation, the Commission selected the fifth Commissioner, hired an Executive Director, promulgated Procedural Rules and issued three opinions. In 2009, the Commission addressed numerous outstanding questions thereby mostly eliminating the backlog of issues. The Commission also conducted one hearing on a complaint.

Through October 30, 2010, the Commission has issued 17 Advisory Opinions, Letter Rulings or Position Statements in 2010. All but two of these opinions were issued within 30 days of receipt of the request, consistent with the Commission's stated goal of issuing opinions in a timely manner. Fewer than half the opinions were issued within 30 days of the request in 2009. In addition, the Commission has considered ten complaints in 2010. Commission staff also frequently answers questions from members of the press and public on an informal basis, and responds to requests for information pursuant to the Colorado Open Records Act, C.R. S. §24-72-101 *et seq*.

The Commission has two full time staff members, the Executive Director and the Communication Director. The Executive Director is responsible for overall management of the Commission, including development and monitoring of the budget. She is the main point of contact for state and local public officials and employees at all levels of government. She performs all legal and factual research relating to complaints and advisory opinions. She drafts all opinions for Commission review. She reports directly to the Commission. The Communication Director is responsible for education and outreach, including the training of public employees. He also maintains the Commission's web site, www.colorado.gov/ethicscommission. He reports to the Executive Director, and to the Commission.

The Commission meets approximately twice per month, usually once per month in person, and once by telephone. On occasion the Commission has had to meet in person more often because of work load and the necessity of issuing opinions in a timely manner. The Commission also has conducted one public hearing on a complaint in 2010.

The Commission is also in the process of revising its procedural rules. These rules were effective September 1, 2008, before the Commission had issued any opinions or heard any complaints. In the intervening two years, the Commission has learned that there are issues related to the current rules, and would like to address these issues as soon as possible in order to improve the efficiency of the Commission. The Commission plans to conclude the rule-making process in early 2011.

The Commission has a limited operating budget but so far has been able to accomplish its tasks within that budget. The bulk of its operating funds are spent on reimbursing Commissioners for travel and other expenses related to attendance at meetings. The Commission is also a member of the Council of Government Ethics Laws, and has participated in that organization's programs.

Over the past year, the most significant changes to the IEC are the moving of the Commission from the Department of Personnel and Administration ("DPA") to the Judicial Department and the addition of a second staff member. The move to the Judicial Department was initiated by the Commission in order to better maintain and improve the independence and autonomy of the IEC. This move was made pursuant to HB 10-1404, and is now codified in C.R.S. §24-18.5-101(2)(a). The Commission also was concerned that because employees of DPA are subject to the IEC's jurisdiction, there was a potential for conflicts of interest. Judicial Department employees are not covered under Article XXIX. The Commission is in the processing of implementing this legislation. As a result of this move, the Commission will build new office space and adopt personnel rules for its employees. (Because of constitutional and statutory provisions requiring some of the Commission's activities to remain confidential, it is imperative that the Commission staff be located in offices which can be locked. The Judicial Department did not have any offices available, and the IEC's staff has been temporarily located in cubicles. The new offices are expected to be completed in November, 2010, and the Commission anticipates moving to the Ralph Carr Judicial Center in 2013).

With the addition of the second staff member, the Commission is expanding its education and outreach program. Over the past two years, the Commission has conducted training sporadically on request. The IEC staff is developing a training program with the goal of training all state executive and legislative branch employees within the next 3 years, and in making ethics training an essential part of new state employee orientation, comparable to the training currently received on workplace violence and diversity. The Commission will expand this training to local government employees under its jurisdiction in the future. The Commission believes that this training is essential to ensure that the people of Colorado's have confidence in the ethics of its employees. The Commission anticipates spending approximately $3000 this fiscal year to produce brochures and manuals, CD's, posters and internet training programs.

NEW FUNDING REQUEST FOR FY2012:

The Commission is asking for a general-funded salary adjustment for the Executive Director. When the Commission was originally created in 2006, the General Assembly authorized one staff member at a relatively low level and only $11,000 for operating expenses. The Commission realized early on that it needed a second staff member, and that it needed its Executive Director to be at a higher level. The Commission submitted a request for an emergency supplemental in September 2008. The Joint Budget Committee authorized the hiring of a second staff member and an increase in the Executive Director's salary, as well as an increase in operating expenses and in the legal services budget. Because of the hiring freeze and other fiscal issues, the hiring of a second staff member was delayed, the authorized increase was reduced, and the legal services budget was also reduced. Moreover, as the Commission matured, it became clear that the Executive Director needs to be an attorney, and the current Executive Director's salary is below that of assistant attorneys general and other attorneys in state government with similar experience. The Commission has known therefore for some time that its Executive Director's salary is significantly below the level of similar positions in state government. The Commission had hoped to address this situation in FY10 through vacancy savings and a reallocation of the second staff position, but was not able to do so because of the "bumping" situation discussed below.

The Executive Director's salary is also significantly below that of the Communication Director, who came to the Commission, not as a direct hire, but rather kthrough the lay off and "bumping" process at DPA. His previous salary was therefore set by DPA and he makes almost 15% more than the Executive Director who oversees this position. The Human Resources Division ("HR") within the Judicial Department recommends that supervisors make an average of 5-10% more than the employees they supervise and the current situation within the IEC does not meet this general guideline.

Due to the issues out-lined above, the IEC utilized the services of the HR Division within the Judicial Department and requested that they conduct a formal compensation analysis to determine an appropriate salary range for the IEC's Executive Director. The HR analysis determined that to be consistent with other similar Executive Director positions, the IEC's Executive Director should make up to $10,716 per month. However, because of budget constraints, the Commission is requesting an increase in the Executive Director's salary to only $8000 per month, less than half the increase described in the report. This constitutes an increase of $1,747 per month and would place the Executive Director within the Judicial Department's guidelines for supervisors. In order to attract and retain qualified staff, and in the interest of fairness, the Commission believes that such an adjustment is appropriate and believes that this requested salary balances the fiscal realities with the need to pay its staff a fair amount commiserate with how other state employees similarly situated are compensated and consistent with Judicial Department policies. The retention of qualified staff is important to ensure continuity, since the Commission staff is so small, and Commissioners rotate off every two years.

The calculations and related schedule 13 for this request are shown below.

FY 2011 - 2012 Change Request

Request Title:	IEC Director Salary Increase	**Emergency:**	
Department:	Independent Ethics Commission	**Technical Error:**	
Priority Number:	1	**New Data:**	X
Dept. Approval by:		**Unforseen Contingency:**	
OSPB Approval:	N/A		

	Fund	Prior-Year Actual FY09-10	Appropriation FY10-11	FY 2012 Base Request	Decision Item FY11-12	November 1 Request	Outyear Costs
Total of All Line Items	**Total**	134,922	182,736	188,240	24,491	212,731	212,731
	FTE	1.5	2.0	2.0	0.0	2.0	2.0
	GF	134,922	182,736	188,240	24,491	212,731	212,731
IEC							
Personal Services	**Total**	130,976	175,799	179,828	23,396	203,224	203,224
	FTE	1.5	2.0	2.0	0.0	2.0	2.0
	GF	130,976	175,799	179,828	23,396	203,224	203,224
IEC							
STD	**Total**	176	250	274	36	310	310
	GF	176	250	274	36	310	310
IEC							
AED	**Total**	2,309	3,867	4,512	587	5,099	5,099
	GF	2,309	3,867	4,512	587	5,099	5,099
IEC							
SAED	**Total**	1,461	2,820	3,626	472	4,098	4,098
	GF	1,461	2,820	3,626	472	4,098	4,098

Letternote revised text: N/A
Cash Fund name/number, Federal Fund Grant name: N/A
IT Request: Yes No - X
Request Affects Other Departments: Yes No - X