

Election Procedures Review
Of
Skagit County
State of Washington
2008 Presidential Primary Election



Conducted by the
Office of the Secretary of State
Election Certification and Training Program



Introduction

The Washington State Legislature enacted legislation in 1992 mandating that the Office of the Secretary of State review county election procedures and practices. The Election Certification and Training Program was established within the Elections Division of the Office of the Secretary of State to conduct reviews and to provide for the certification of election administrators. In 2005, the Legislature expanded the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every three years. The Legislature also added a requirement that the Program conduct a follow-up visit to verify that the County Auditor's Office has taken steps to correct the problems noted in the report.

The election review process is governed by RCW 29A.04.510 through 29A.04.590 and Chapter 434-260 of the Washington Administrative Code.

Pursuant to RCW 29A.04.570(1)(b), the Election Certification and Training Program conducted an election review in Skagit County during the 2008 Presidential Primary. Samantha Duncan, Elections Program Specialist, represented the Election Certification and Training Program during the review. The Honorable Jeanne Youngquist, Skagit County Auditor, David Cunningham, Elections Supervisor, and Margaret Enders and Casey Earles, Elections Department staff members, participated on behalf of the Skagit County Auditor's Office.

Both the reviewer and the Skagit County Elections Department approached the review in a spirit of cooperation. The department allowed the reviewer to thoroughly review and examine all aspects of the election processes. The staff provided documentation and materials during the review which greatly contributed to a successful examination process.

The purpose of this review report is to provide the Skagit County Elections Department with a useful evaluation of its election procedures and policies and to encourage procedural consistency in the administration of elections throughout the state. This review report includes a series of recommendations and/or suggestions that are intended to assist the Skagit County Elections Department in improving and enhancing its election processes in order to better serve the voters.

The reviewer is statutorily prohibited from making any evaluation, finding, or recommendation regarding the validity of any primary or election, or of any canvass of the election returns. Consequently, this review report should not be interpreted as affecting the validity of the outcome of any election or of any canvass of election returns.

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Overview

Skagit County, perhaps best known for acres of colorful tulips at the annual Tulip Festival, is situated along the waters of Puget Sound one hour south of the Canadian border. Home to over 61,000 registered voters, Skagit County has voted entirely by mail since 2005.

The Skagit County Elections Department is dedicated to serving the voters not only by administering accurate elections, but also by conducting outreach programs. Each year, the Skagit County Auditor's Office produces an Elections Guide. The guide is a compact, yet very informative booklet designed to provide Skagit County voters with relevant elections information. It is presented in a pleasant, user friendly format. Information contained in the book includes: names of elected officials, a summary of election laws, voter registration and transfer forms, Skagit County trivia, a listing of ballot drop off sites, key election dates, and various election statistics. This is a fine example of putting forth extra effort to provide important elections information to the voters.

The Skagit County Elections Department is reaching out to voters in other ways as well, such as through the Elections Expo. On the day of the Expo, local students and other visitors came to the elections office and watched a power point presentation on administering elections. Historical elections record books and ballots were displayed, and tours were given of the elections area to allow the public to observe ballot processing. The department was decorated to welcome visitors, complete with a real life Eleanor Roosevelt greeting the public and talking about elections past. This event offered the public an educational opportunity combined with a fun atmosphere in which to learn more about elections.

The atmosphere of the Skagit County Elections Department was pleasant, and the staff members provided customer service to the public with a friendly, positive attitude. It was apparent during the course of the review that all members of the Skagit County Elections Department are extremely dedicated to their jobs. This was demonstrated especially when they had to perform extra duties because a crucial staff member was out of the office for an extended period of time. While the remaining staff members worked hard to learn and perform the additional tasks, it would be a huge advantage to the department to hire another full time staff member. This person could be trained in the technical aspects of elections, specifically in the voting systems area. Elections administration has become more complicated in recent years, and requirements have grown while staffing has not. Hiring an additional person would help ensure the department has the staffing to fulfill all requirements and continue to run smoothly when another employee must be out of the office.

The Skagit County Auditor should be commended for her dedication to elections and to maintaining positive office morale. While this report lists items that must be addressed, overall, the Skagit County Elections Department is doing a fine job administering elections.

Recommendations

The following recommendations identify areas in which the county is out of compliance with the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), the Washington State Constitution, or Federal election law. The reviewer obtained information based on actual observation of a procedure, verbal explanation or written procedures. The reviewer provides a description of the county's procedure, a citation of the applicable law, and a recommendation based on the citation.

Ballots

The Presidential Primary ballots provided no spaces for voters to write in a candidate's name on the ballot. Instructions for write-in voting were included on a separate insert, not on the ballot itself.

RCW 29A.56.040(3) requires, "Each party's ballot or portion of the ballot must list alphabetically the names of all candidates for the office of president. The ballot must clearly indicate the political party of each candidate. Each ballot must include a blank space to allow the voter to write in the name of any other candidate..."

RCW 29A.36.161(1) states, "On the top of each ballot must be printed clear and concise instructions directing the voter how to mark the ballot, including write-in votes..."

Recommendation: The Skagit County Elections Department must always design the ballots to provide spaces for voters to write in a candidate, and include instructions for write-in voting on the ballot's face.

Ballot Resolution

Administration of the Presidential Primary was guided by political party rules that did not correspond to the way the tabulation system works. This required elections staff members to perform huge amounts of manual work to ensure ballots were tabulated according to the rules of the election. A large part of this was working with the tabulation system to resolve ballots. Ballot resolution tells the tabulation system how to read each vote on a particular ballot. This was necessary for over 28,000 ballots received by the Skagit County Auditor's Office, because so many voters returned voted ballots but had not signed a political party oath.

It was observed that the ballot resolution was performed by individual staff members, and not in teams of two.

WAC 434-261-102 "In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed and signed by the two staff."

Recommendation: Resolution must be done in teams of two, and a log of the resolutions must be printed and signed by the two staff members. To maintain accountability, it should be apparent on the log which teams of staff resolved each ballot.

Canvassing Board Members

At the Canvassing Board meeting attended by the reviewer, one Canvassing Board member was unable to attend and the County Treasurer was serving in her place.

RCW 29A.60.140(1) requires, "Members of the county canvassing board are the county auditor, who is the chair, the county prosecuting attorney, and the chair of the county legislative body. If a member of the board is not available to carry out the duties of the board, then the auditor may designate a deputy auditor, the prosecutor may designate a deputy prosecuting attorney, and the chair of the county legislative body may designate another member of the county legislative body..."

Recommendation: Members of the Skagit County Canvassing Board must only designate the specified persons to serve as alternate members of the Board.

Signature Verification Letters

Occasionally, a ballot is received where the signature on the oath does not match the signature on file for that voter. When this occurs, the Skagit County elections staff sends a letter asking the voter to either sign a new registration form in person, or sign an enclosed affidavit and mail it to the office. The letter does not ask that the signed affidavit be witnessed by two signatures or accompanied by a copy of government identification. A copy of the oath from the ballot envelope is not part of the enclosed affidavit.

RCW 29A.60.165(2)(a) states, "If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by first-class mail, enclosing a copy of the envelope affidavit, and advise the voter of the correct procedures for updating his or her signature on the voter registration file..."

WAC 434-261-050(3) states, " If the signature on the oath of an absentee or provisional ballot envelope does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or

(b) Sign a copy of the affidavit provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the affidavit must match the signature on the identification, and both of those signatures must match the signature on the ballot envelope. The voter must return the signed affidavit and identification to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the affidavit provided by the auditor in front of two witnesses who attest to the signature. The signature on the affidavit must match the signature on the ballot envelope. The voter must return the signed affidavit to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections..."

Recommendation: The letter must be revised to require the signed affidavit be witnessed by two persons or accompanied by a copy of an allowable identification. A statement advising the voter on how update the signature for future elections must also be included.

The affidavit that is sent along with the letter must also be revised to include the same oath as is on the mail ballot return envelope.

Precincts

Sections of Skagit County that are comprised of federal land are not contained within any precinct.

RCW 29A.16.040 requires, "The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts."

Recommendation: The Skagit County precinct lines must be redrawn to include the entire county.

Suggestions

The following are suggestions for increasing efficiency and improving operations within the County Auditor's Office. Although these suggestions do not address issues involving compliance with state laws or administrative rules, the reviewer identified the tasks as areas of election administration in which the County Auditor might improve the efficiency and operation of the office.

Hiring and Training of Staff

Prior to the Presidential Primary, the Elections Supervisor had an emergency and was unable to return to the office for an extended period of time. The rest of the staff pulled together and worked hard to prepare for the election, but it was apparent that the other staff members had not been trained in all of the duties of the missing staff person. Learning and performing those extra duties took existing employees away from their own work in an already very complicated and labor intensive election.

Suggestion: The Skagit County Auditor's Office should concentrate on cross training of the staff and producing a thorough, task-oriented procedures manual. This will help ensure that if a crucial employee is unable to work, the administration of the election can still be conducted smoothly.

Additionally, it would benefit the office greatly to hire another staff member who could be thoroughly trained in all technical aspects of elections administration. In the past few years, hundreds of changes have been made to election law, many of which include new requirements for elections staff. Hiring a new person would not only serve to provide a back up to the Elections Supervisor, but would allay some of the extra burdens on existing staff members.

Canvassing Board Meeting

The Canvassing Board meeting attended by the reviewer was held the Friday before certification of the election. At the meeting, a list was presented of the reasons ballots were referred to the board, along with the number of ballots sent for each category. Some of the numbers were not correct because some ballots fit in more than one category, and there was confusion as to which ballots were included in which totals.

Suggestion: Each ballot that is sent to the Canvassing Board should be tracked by category and by a unique tracking number. This will allow the staff to accurately track which specific ballots are being sent to the Canvassing Board, for what reason, and what the final determination is.

Ballot Boxes

All ballots were removed from the ballot box outside of the County Auditor's Office at exactly 8 p.m. on Election Night. It was observed that after the ballots were removed, the box was not sealed.

Suggestion: Ballot boxes should be locked or sealed after emptying to prevent the public from placing additional ballots in the box beyond the deadline. This enables the elections staff to prove that all valid ballots in the box by 8 p.m. on Election Night were taken to the elections department for processing.

County's Response to Draft Review Report

The Election Certification and Training Program issued a Draft Review Report to the Skagit County Canvassing Board. In accordance with WAC 434-260-145, we provided Skagit County time to respond, in writing, to recommendations listed in the draft report.

The Skagit County Canvassing Board provided the following response to the Draft Review Report. The signed original of their response is on file in the Office of the Secretary of State.



Jeanne Youngquist
SKAGIT COUNTY AUDITOR

Barbara Leander
Chief Deputy Auditor

David Cunningham
Elections Supervisor

July 25, 2008

Samantha Duncan or
To Whom It May Concern
502 Union Ave. S. E.
Olympia, WA 98504-0220

Dear Samantha,

This letter comes to you along with our responses to the recommendations made to improve our election process.

Thank you for all you have done to assist us and what you have done for Washington Elections. Texas will be the winner on this one.

We will miss you.

Please accept this letter also as an acceptance of the recommendations by Commissioner Don Munks who is with me to sign this letter.

Sincerely

A handwritten signature in black ink that reads "Jeanne Youngquist". The signature is written in a cursive style.

Jeanne Youngquist
Skagit County Auditor

A handwritten signature in blue ink that reads "Don Munks". The signature is written in a cursive style.

To perform professionally the duties of the Skagit County Auditors Office with integrity, a spirit of innovation, accessibility, and efficient use of taxpayer resources, while emphasizing outstanding customer service.

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This document contains the responses of the Skagit County Auditor's Office (hereinafter called "the Auditor's Office") to document "Election Procedures Review of Skagit County, State of Washington, 2008 Presidential Primary Election" ("the audit"). That document contains the audit of the Skagit County Elections Department ("the Elections Department") by the Office of the Secretary of State ("OSOS") of Washington State. This audit was performed in February and March of 2008, principally by OSOS staff member Samantha Duncan ("Ms. Duncan").

This document was prepared initially by Skagit County Elections Supervisor David Cunningham ("Mr. Cunningham"), and subsequently reviewed by Skagit County Auditor Jeanne Youngquist and Skagit County Chief Deputy Auditor Barbara Leander, and finally approved by the members of Skagit County's Canvassing Board. This document was initially composed on Tuesday, July 15th, 2008.

The remainder of this document contains the responses to the audit.

2 RESPONSES

2.1 Response to Section "Overview"

1. Thank you for your gracious words.

2.2 Responses to Section "Recommendations"

2.2.1 Response to Sub-Section "Ballots"

1. The Auditor's Office is aware of this error in the production of the 2/19/2008 Presidential Primary and Special Election ballot. As has been discussed with Ms. Duncan, this error was caused by an incorrect assumption regarding the law and the nature of the election in question. This error has not occurred in the past and assuredly will not occur again in the future.

2.2.2 Response to Sub-Section "Ballot Resolution"

1. The Auditor's Office is aware of this error in the resolution of the 2/19/2008 Presidential Primary and Special Election ballots. As has been discussed with Ms. Duncan and as she graciously noted in the audit, a

huge amount of resolution was required on the ballots of this election, which task was made more difficult still by the month long absence of Mr. Cunningham until three days before the election. This error will not be repeated in the future, i.e. resolution will occur in teams of two, and logs will be maintained as recommended.

2.2.3 Response to Sub-Section “Canvassing Board Members”

1. The Auditor’s Office is aware of this error in the canvassing board meeting attended by Ms. Duncan. The Auditor’s Office has discussed this situation both internally and with Ms. Duncan. Such errors are outside the control of the Auditor’s Office, being in the purview of other, independent elected officials. The Auditor’s Office has also discussed this situation with the offices of the other officials constituting the Canvassing Board, and believes all offices are now “on the same page” with regard to the function of the Canvassing Board. The Auditor’s Office welcomes any additional recommendations as to how to eliminate this error in the future.

2.2.4 Response to Sub-Section “Signature Verification Letters”

1. The letter and affidavit have been modified as recommended.

2.2.5 Response to Sub-Section “Precincts”

1. The Auditor’s Office is uncertain how to understand the cited RCW. As noted, the RCW starts with the sentence, “The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts.” In this sentence:
 1. What is the meaning of the word “hereafter”?
 1. If “hereafter” refers to the effective date of the statute....
 1. What is that date?
 2. Does the sentence then refer to any county formed after the effective date of the statute?
 2. If “hereafter” does not refer to the effective date of the statute, to what does it refer? What is then the meaning of the statute, in other words, to what does it refer?

2. There is nothing in this statute stating explicitly that the entirety of a county, including areas contained in national parks or forests that are ostensibly uninhabited, must be contained within elections precincts. There is also nothing stating the opposite, that such areas are not to be included in elections precincts. Given this uncertainty of interpretation, is it the position of the OSOS that the statute is to be understood as meaning the entirety of a county must be put into precincts? If that is the case, the Elections Department will certainly do this.

2.3 Responses to Section “Suggestions”

2.3.1 Responses to Sub-Section “Hiring and Training of Staff”

1. In the opinion of the Auditor’s Office, cross-training staff to the degree recommended is not possible given current staffing. Some cross training is definitely possible, but cross training to the degree required to “...conduct [elections] smoothly” cannot be done at present because the large majority of the time of existing staff is consumed in maintenance of the voter registration system. They do not have sufficient time to thoroughly learn the highly technical ballot tabulation system, much less the time to actively practice, and thus keep current, that skill set. For this reason, the recommendation, discussed below, to hire another staff is much appreciated.
2. A “thorough, task oriented procedures manual” does currently exist in the form of:
 1. Current written procedures, which embrace all non-tabulation-system processes and procedures in the county; Skagit County Elections has been recognized in the past by the OSOS for it’s policy and procedure manual, and we want to maintain that reputation, so be assured we will maintain these procedures; and...
 2. The tabulation system operations, and other, manuals provided by the vendor. These manuals describe in great detail the operation of that system. Additionally, Mr. Cunningham is currently creating a customized version of that documentation that describes essential procedures of the tabulation system as it is operated in Skagit County. This essential procedures document will provide only a summary of operations, with references to original system documentation for details.

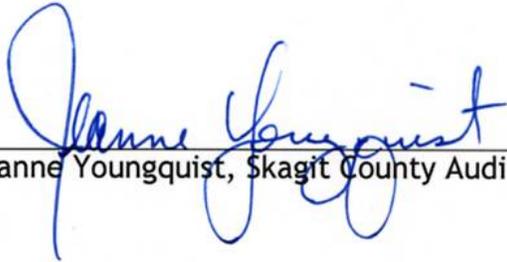
3. The suggestion to hire another staff member is greatly appreciated. The Auditor's Office is actively seeking such a position in the current budget process.

2.3.2 Response to Sub-Section "Canvassing Board Meeting"

1. The Elections Department will institute the use of a log sheet, as described, to track all ballots sent to the canvassing board. This is the first time in the memory of the elections staff that such an error has occurred.

2.3.3 Response to Sub-Section "Ballot Boxes"

1. It is already the policy of the Elections Department to seal all ballot boxes after they have been emptied. It was an oversight that the box in question was not sealed the night in question, and this error will not be repeated.



Jeanne Youngquist, Skagit County Auditor

7-23-2008

Date

— End of document —

Conclusion

Many of the items in this report will require document revisions or procedural changes to bring the department into compliance. Updating the procedures manual and focusing on hiring and cross training staff, while not an issue of compliance, will make a tremendous positive impact on the department. Maintaining strict accountability when there are up to six elections each year with a fluid population is a monumental task. When coupled with the number of changes in election law, additional accountability requirements, and ever more technical voting systems, hiring another staff member is crucial to the success of the Skagit County Elections Department.

The elections department will also benefit from making adjustments to the Canvassing Board Meetings. Using a detailed log and making sure to designate only the allowable alternative members will make the meetings run smoother and in accordance with statute.

The Skagit County Auditor and her staff are committed to administering elections in an accountable and open manner. The teamwork observed at the office is a testimony to the dedication and enthusiasm of the staff. It is obvious that areas such as voter outreach and education are very important to the County Auditor, and she and her staff should be commended for their efforts in this arena.

Performing the review on the Skagit County Elections Department was a positive and enjoyable experience. Addressing the items listed in the report will further enhance this fine organization.

Review Report Prepared by:

Samantha Duncan
Elections Program Specialist
Office of the Secretary of State



Date: 08-01-08

Signature