

Lewis County

2010 General Election

State of Washington



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 2009, the Legislature altered the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every five years. The Legislature also added a requirement that the Program conduct follow-up contact to verify that the County Auditor's Office has taken steps to correct the issues 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 Lewis County during the 2010 Primary Election cycle. Miriam Campbell, Elections Program Specialist, represented the Election Certification and Training Program during the review. Gary Zandell, Lewis County Auditor, Mariann Zumbuhl, Elections Supervisor, and other members of the staff participated on behalf of the Lewis County Auditor's Office.

Both the reviewer and the Lewis 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 Lewis 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 Lewis County Elections Department in improving and enhancing its election processes.

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

There are approximately 42,000 registered voters in Lewis County contained within the 3rd Congressional District, the 20th Legislative District, and eighty-three precincts. The County Auditor's Office is located in the historic Lewis County Courthouse in Chehalis. The county's largest population center is the city of Centralia.

Voter registration and accessible in-person voting services are available in the County Auditor's main office. The permanent elections staff is highly experienced and competent, demonstrating an excellent knowledge of voter registration laws and a commitment to daily ballot reconciliation. During an election cycle, the department receives voted ballots in the main office initially. After initial processing and signature verification, ballots are transported to a separate final processing center in the courthouse. The final processing center is efficiently organized and the canvassing clerks (temporary elections staff) work very well together.

Lewis County is fortunate to have the necessary space for conducting elections, especially for accommodating an election with high voter turnout such as the mid-term 2010 General Election. The space in Lewis County's final processing room allows for transparency while maintaining the integrity of election administration. Political party observers are welcome to observe all aspects of the process.

As recommended previously in Lewis County's Review in 2006, the County Auditor must address procedures regarding ballot security. The department still needs to implement procedures documenting access to ballots during all phases of processing in order to detect inappropriate access if needed. For instance, the County Auditor could consider using a wire cage on wheels to secure and transport ballots from the main office to the ballot processing center, or, require two staff members remain with the ballots at all times.

Lewis County has one ballot deposit box for voters wishing to deposit voted ballots. The box is located in the lobby of the county courthouse. Voter turnout in the mid-term 2010 General Election was very high, resulting in large volumes of deposited ballots. Staff emptied the deposit box at least three times on Election Day. The County Auditor did not accept ballots over the counter within its main office.

The reviewer had the opportunity to observe many of the elections department procedures. Some procedures were reviewed through requested documents and some were explained. All aspects of election administration were reviewed and the Lewis County Auditor's Office was very cooperative.

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.

CONFIRMATION NOTICES

Procedure: When the County Auditor's Office receives undeliverable mail from the United States Post Office, such as an Acknowledgment Notice, the elections department does not send a Confirmation Notice.

Requirements: *RCW 29A.08.620 (4) requires, "The county auditor shall place a voter on inactive status and send to all known addresses a confirmation notice if any of the following occur: (a) Any document mailed by the county auditor to a voter is returned by the postal service as undeliverable without address correction information..."*

Recommendation: The elections department must send a Confirmation Notice to all known addresses on the voter's registration record at which the County Auditor can reasonably expect the voter to receive mail.

VOTER STATUS BASED ON JURY NOTICES

Procedure: The elections department utilizes jury summons information as a source for updating voter registration records. The department changes "voter status" based on information provided to the County Clerk.

Requirement: *RCW 29A.08.630 requires, "The county auditor shall return an inactive voter to active voter status if, prior to the passage of two federal general elections, the voter: (1) Notifies the auditor of a change of address; (2) Responds to a confirmation notice...; or (3) Votes or attempts to vote..."*

Recommendation: A voter's communication with the courts must not affect his or her voting status. The elections department should not take action regarding voter status if the information is received on a jury summons. Addresses indicated on jury notices are not provided by the voter for voting purposes.

VERIFICATION NOTICES

Procedure: When the County Auditor's Office receives an incomplete voter registration application, the elections department contacts the voter via telephone to obtain information for completion of the form. When information cannot be obtained via telephone or through other means, the elections department sends a verification notice to a voter whose application is incomplete.

Requirement: *RCW 29A.08.110 (2) requires, "If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete."*

Recommendation: The County Auditor shall promptly mail a verification notice to an applicant if any information required to register to vote is missing from the application.

COUNTY AUDITOR'S OFFICE AS A VOTING CENTER

Procedure: The County Auditor's Office has helpful information for voters available at its voter services counter. However, not all the information required was posted in the voting center.

Requirement: *WAC 434-250-100 requires, "Each voting center must: (l) Display a HAVA voter information poster; and (m) Display the date of that election; and (c) Be marked with signage outside the building indicating the location as a place for voting."*

Recommendation: Required pieces of information must be visibly displayed in each voting center. The poster provided by the Secretary of State's Office is designed to contain specific elements required by the Help America Vote Act. The elections department must remember to add this information to the poster and display it in the County Auditor's Office at the beginning of each 18-day voting period, or, provide the information with another effective method.

The County Auditor's Office is a voting center and must display the date of each election as well as the other specifics required by HAVA (see poster). Additionally, an 8.5 x 11 paper sign was posted on the door of the courthouse, and visible to the public only upon entering the courthouse through that particular door.

BALLOT SECURITY

Procedure: After envelopes with ballots are received and opened in the main County Auditor's Office, the ballot envelopes are counted and signatures of voters are verified.

- The ballot envelopes are transported from the main office through a set of doors, into a large lobby area, through a narrow hallway with elevators, and through another door which opens to the ballot processing room. The processing room is out of the line of sight of election staff in the main office. Only one staff person transports the ballots from the main office to the processing room. The ballots are not secured with numbered seals to detect access.
- Ballots being processed are stored in a file cabinet, but not secured with a numbered seal. The cabinet is accessed by various canvassing clerks throughout the day to store or remove ballots being processed and requiring resolution. A log for recording seal numbers is not employed in close proximity to the seals.
- Ballots awaiting duplication are placed in an envelope on a table in the processing room. The envelope is left on the table and is not secured with a numbered seal.
- When staff leaves the ballot processing room for short periods of time, the door is locked, but the door is not secured with a numbered sealed. On Election Day, neither the filing cabinet nor the processing room doors were sealed with numbered seals. Similar procedures were also observed during the Lewis County Review process of 2006.

Requirement: *RCW 29A.40.110 (2): "All received absentee return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until after 8:00 p.m. of the day of the primary or election."*

WAC 434-250-110 (2) requires, "Following initial processing, all absentee ballots must be kept in secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel."

WAC 434-250-130 states, "Each county auditor shall maintain an audit trail with respect to the processing of absentee ballots, which shall include, but not be limited to, the following: ... (6) A documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the absentee ballot process...."

RCW 29A.60.125 requires, "Original and duplicate ballots must be sealed in secure storage at all times, except during duplication, inspection by the canvassing board, or tabulation."

434-261-005 (9) "Seal log" is a log documenting each time a numbered seal is attached or removed from a ballot container. The log must include the seal number, date, and identifying information of persons attaching or removing the seal. Following certification of the election, the seal log must include documentation as to why the seal was removed from a ballot container."

Recommendation: The Lewis County Auditor must implement measures to secure ballots at all times. Numbered seals and seal logs must be employed to document access to ballots.

The persons physically breaking the seal and accessing the ballots at that time, or, attaching the numbered seal must be the same persons who sign the log. It is recommended that the log be in close proximity to where the numbered seals are employed and contain identifying information of the persons attaching or removing the seal.

The department must employ methods to secure and transport the ballots between the main office and the final processing room. Especially when ballots are transported between separate parts of the courthouse and a line of sight is not visible, ballots must either be sealed if transported by a single person, or, be accompanied by two staff persons at all times.

Finally, original ballots awaiting duplication must be sealed in secure storage at all times.

BALLOT DEPOSIT SITES

Procedure: The Lewis County Auditor provides one ballot drop box inside the county courthouse. Voters are not provided any other deposit site at a geographical location separate from the County Auditor's Office. For example, Lewis County's largest population center, the city of Centralia, does not have a ballot deposit site location.

Requirement: *WAC 434-250-320 requires, "A county auditor conducting a county-wide election entirely by mail must provide at least two locations to deposit ballots. These locations may be either a ballot deposit site or a voting center, as defined in WAC 434-250-100. At least one location may be at the county auditor's office. All other deposit sites must be at geographical locations that are different from the county auditor's office."*

Recommendation: The Lewis County Auditor should, at a minimum, provide voters with one other deposit site location available to voters on Election Day, 7:00 AM – 8:00 PM. The County Auditor might also consider making the deposit site highly accessible by creating an ADA

compliant drive-up site that is available 24-hours a day, 18 days prior to each election. An ADA compliant deposit site would be eligible for a HAVA grant.

The absence of two required ballot deposit sites in Lewis County was observed at the county's previous election review.

CANVASSING BOARD POLICIES AND PROCEDURES

Procedure: The Lewis County Canvassing Board updated its "Policies and Procedures" manual in October 2010 to prepare for the General Election. However, policies in the manual stipulate the following outdated procedures:

- An entire ballot must be rejected if it is marked so as to identify the voter. (p. 5)
- In a case where the voter has marked two candidate positions and then written in the name of one of the candidates, a vote is to be counted for the duplicated candidate. (p.31)
- For a ballot that contains multiple questions/issues and the pattern of votes show properly filled in positions, an 'X' mark would indicate a voter's correction to "blank." (p. 31)

Requirement: WAC 434-261-086(f) requires, "Marks identifying the voter, such as initials, signatures, or addresses, do not disqualify a ballot."

(n) "If a candidate's target area is marked and something other than that candidate's name is written in the write-in response area, it shall be counted as an overvote and not a valid vote for any candidate."

(d) "If the voter has both marked a choice correctly and placed an 'X' in the same target area, but has not marked a second target area, it shall be counted as a valid vote."

(s) "Voter intent on questionable marks not covered by the rules... must be determined by County Canvassing Boards according to all applicable laws of the state of Washington and the Canvassing Board manual."

Recommendation: The Lewis County Auditor must ensure that rules for voter intent are followed and reflected in the Canvassing Board Manual. The Canvassing Board may adopt voter intent rules on marks not covered by WAC 434-261-086, but such rules must not be in conflict with the adopted Statewide Standards on what is a Vote.

STATEWIDE STANDARDS ON WHAT IS A VOTE

Procedure: During the resolution process for inspecting digitally scanned ballots, the reviewer observed canvassing clerks count an over-voted race as a vote for “No.” The voter drew a checkmark next to a “No” response position. The reviewer observed another over-voted race with other indiscernible marks be determined as “Yes” by canvassing clerks, in which the voter’s intent was not clear.

Requirement: *WAC 434-261-086 (a) requires, “Any marks made outside the target areas shall be valid only if they fulfill the consistent pattern requirements of Rule B; and (e) Written instruction includes words, circles, or arrows.”*

Recommendation: Many procedures in elections are administered infrequently, such as determining voter intent for voters that do not follow directions for correcting a vote. The subtleties of voter intent warrant a “refresher” training prior to each election to provide consistency within the county’s election and throughout the state. Whenever canvassing clerks are unclear about a voter’s intent, they must refer to the *Statewide Standards on what is a Vote*, or, refer the ballot to the County Canvassing Board.

RESOLUTION LOG

Procedure: The Lewis County Elections Department properly requires two or more designated staff to conduct the resolution process in its digital scanning system for ballots. The department also prints out the required resolution log. However, resolutions made throughout the day by multiple canvassing clerks are printed into one log at the end of each day, and signed by all operators who conducted the scanning and resolving process. This procedure makes it unclear as to which operators made particular resolution determinations.

Requirement: *WAC 434-261-102 requires, “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: The elections department must print the required log of resolutions and only the two corresponding operators that made resolution determinations may sign the log.

DISABILITY ADVISORY COMMITTEE PLAN

Procedure: The Lewis County Auditor has established an advisory committee for the purposes of implementing a plan for improving the accessibility of elections. The committee does not appear to maintain a plan, nor does it update the plan annually.

Requirement: *RCW 29A.46.260 (2) states, “Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee shall assist election officials in developing a plan to identify and implement changes to improve the accessibility of elections for voters with disabilities.”*

RCW 29A.46.260 also requires, “Counties must update the plan at least annually. The election review staff of the secretary of state shall review and evaluate the plan in conformance with the review procedure...”

Recommendation: The Lewis County Auditor must develop a plan with members of its Disability Advisory Committee. The plan must be implemented to improve the accessibility of elections for voters with disabilities in Lewis County. The plan shall include recommendations for elements listed in 29A.46.260. The plan must be updated annually.

The review staff of the Secretary of State’s Office could not review nor evaluate the plan because Lewis County does not maintain such a plan.

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.

TRAINING FOR TEMPORARY STAFF

The permanent elections department staff has been fully trained in signature verification procedures and is highly competent. On Election Day, full-time staff was engaged with voters requesting voter registration services and voters wishing to vote in-person. The volumes of ballot envelopes received on Election Day and the day prior to the election were much greater than anticipated.

The 2010 General Election overwhelmed permanent staff on Election Day, creating a ballot processing bottleneck. This also made it challenging for permanent staff to supervise procedures administered by temporary staff.

Suggestion: To diminish the inevitable bottleneck of a high-volume election, the elections department should consider training temporary staff on signature verification procedures. The ballot processing staff is made up of knowledgeable temporary staff that could be trained in signature verification to alleviate the burden on permanent staff. Temporary staff could increase the efficiency of an already capable operation.

Most importantly, this additional training would allow permanent staff in the main office to focus on voter registration services, in-person voting, management of the ballot deposit site(s), and supervision of temporary election staff.

ACCESSIBLE VOTING UNIT

The main office provides in-person voting services. The accessible voting unit is located in a small cubicle area behind the counter accessed through a swinging door. The area devoted to the unit poses challenges for voters with disabilities.

Suggestion: The County Auditor should assess the accessible voting area to ensure that its size and arrangement is truly accessible to any voter wishing to vote on the unit.

BALLOT PROCESSING AND TRANSPARENCY

As stated in the Overview of this report, the Lewis County elections department permitted political party observers and members of the public to observe the election process. The reviewer observed many aspects of the operation and the elections department was helpful and cooperative. To further improve transparency of the process, the department should ensure the door to the ballot processing room remain open to the public.

Ballot processing is an open, public procedure. On several occasions, the door to the processing room was locked and the reviewer had to knock and request entry from canvassing clerks throughout the election. On Election Day, the County Auditor made a verbal announcement to staff in the center that the door to the processing room should always be unlocked. However, later that same day, the processing center door remained locked and the reviewer had to request entrance again.

Suggestion: The Lewis County Auditor is correct in training canvassing clerks to leave the final processing center door unlocked, so that the process is open to the public. But the department must ensure that the door is in fact open during all processing hours and secured when ballot processing is not occurring.

COMMENDATION

The following commendations are to acknowledge the county election department's especially creative, effective procedures or solutions that go above and beyond what the law requires.

VOTER OUTREACH AND COMMUNICATION

The Lewis County Elections Department has developed outreach information to explain its digital scan voting system to voters. Election technology promotes fair and accurate elections. The elections department has designed handouts and website information to help explain vote counting technology and the important characteristics of digital scan ballots. While not required, preparing this type of outreach information helps to educate voters, the media, and members of the public to better understand how Lewis County's voting system promotes democracy.

The Lewis County Elections Department has recently updated its voter registration notices to better communicate with voters and applicants. It collaborated with Design for Democracy to redesign the notices thereby improving the process and removing obstacles for eligible voter registration applicants.

COUNTY'S RESPONSE TO DRAFT REVIEW REPORT

The Election Certification and Training Program issued a Draft Review Report to the Lewis County Canvassing Board in May 2011. In accordance with WAC 434-260-145, we provided Lewis County 15 business days to respond, in writing, to recommendations listed in the draft report.

The County Auditor 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.

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Auditor

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June 6, 2011

Miriam Campbell
Elections Program Specialist
Office of the Secretary of State
Olympia, Washington 98504

RE: SOS Review, 2010 Election

Dear Ms. Campbell:

On behalf of the Lewis County Canvassing Board I am responding to your review of this county's procedures that you personally observed during the 2010 election cycle. This response accords with the requirements enumerated at WAC 434-260-145.

This office endorses your recommendations and suggestions in their entirety. We have begun scouting for an appropriate drop-site location and will initiate grant funding for recommended hardware purchases to enhance ballot security. Additional training for our part-time canvassing board clerks is scheduled to begin the week prior to our August primary. Other enhancements to our procedures will be adopted as we phase into the August-November election cycle.

For the Lewis County Canvassing Board.

A handwritten signature in blue ink that reads "Gary E. Zandell".

GARY E. ZANDELL
Lewis County Auditor and ex-officio
Supervisor of County Elections

CONCLUSION

The Lewis County Elections Department is very professional. Staff works well with one another and with the public to administer accurate and fair elections. The department has an excellent commitment to daily reconciliation, ensuring every ballot is accounted for in an election cycle.

While the department endeavors to comply with ever-changing election laws and codes, it must make major changes to procedures relating to ballot security. Ballots and envelopes must be secured with numbered seals during transport, processing and storage. One method for achieving such security within the Lewis County Courthouse would be the use of a wire cage on wheels. Such a cage could be secured with a numbered seal in the main elections office and transported to the final processing room with a seal log attached.

The County Auditor must work with Lewis County's Disability Advisory Committee to maintain a plan for improving the accessibility of elections, and also address the installation of an additional accessible ballot deposit site for all voters. A ballot deposit site may be staffed or unstaffed – so long as it is located geographically separate from the elections department. For elections in the near future, a temporary unstaffed site could be made available on Election Day, 7 AM – 8 PM. This is a simple solution for complying with the requirement. Consulting with its Disability Advisory Committee will also provide the County Auditor with useful feedback for identifying solutions.

Finally, the County Auditor must send confirmation notices to the addresses of inactive voters thereby complying with the National Voter Registration Act.

The Lewis County Elections Department is organized and its commitment to accurate elections is evident. The department's operation will improve through adjustments to its security documentation procedures, continuing to train its temporary elections staff, and anticipating high voter turnout in larger elections.

Report Prepared by Miriam Campbell, Elections Program Specialist, Election Certification and Training Program

Signature:



Date: June 10, 2011