

Election Procedures Review
Of
Spokane County
State of Washington
2008 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 Spokane County during the 2008 Primary Election cycle. Libby Nieland, Program Specialist, represented the Election Certification and Training Program during the review. Mike McLaughlin, Spokane County Elections Manager, Kris Forgey-Haynie, Spokane Election Services Supervisor, Kit Anderson, Spokane Voter Services and other members of the staff participated on behalf of the Spokane County Auditor's Office.

Both the reviewer and the Spokane 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 the review.

The purpose of this review report is to provide the Spokane 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 Spokane 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

Spokane County is a land of diversity, geographically and economically. The challenge in conducting elections is in accommodating this diversity.

Sparsely populated open country and forested hills separate small communities in most of Spokane County. In sharp contrast is the city of Spokane, located at its center. Spokane, the second largest city in Washington State, serves as the business, transportation, medical, industrial, and cultural hub of the Inland Northwest.

Economic disparity among the five legislative districts of the county adds complexity to election processes. The legislative districts range from stable, affluent communities to economically challenged, highly mobile populations.

Spokane County also hosts eight colleges and universities and the Fairchild Air Force Base. These voters are highly mobile populations. Mobile populations, in regards to elections, are demanding when maintaining voter records and conducting balloting.

In 2006, the Spokane County Auditor established the position of Voter Outreach and Election Communication Coordinator to help meet this and other voter information challenges. The Outreach Program provides many informational pamphlets to voters and special interest groups, conducts community outreach, and supports the five voting service centers located throughout the county on Election Day.

The Spokane County Auditor encourages innovation and efficiency. Staff is knowledgeable and diligent in conducting elections. The increasing challenges in election administration are met by staff through an effective use of election technology.

The physical layout of the Spokane County Elections office is well designed. The ballot processing area is completely visible to observers while providing excellent security. The access to the building is in compliance with the Americans with Disabilities Act of 1990. One drawback remains; the location lacks sufficient parking for visitors. This limitation of available public parking presents a physical barrier to the election process by restricting access to the election process.

In the course of this review, the reviewer observed pre and post election tasks, election procedures, canvassing of ballots, and certification of the election. Written procedures and documents pertaining to the 2008 Primary were researched. Staff willingly provided verbal explanations when the reviewer had questions or requested further information.

The elections staff provided substantial documentation concerning every process of the elections office. The records created and maintained by Spokane County elections helped support a comprehensive review.

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 work performed, 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.

Voter Verification Notice

Periodically a voter registration application is incomplete and does not have all required information. The Spokane County Auditor correctly sends a verification notice to the applicant requesting all missing information. The verification reply form provides a line for the voter's signature. The form does not have the voter attest to the correctness of the information. A signature, without the voter declaration, does not meet the requirements for voter registration.

RCW 29A.08.110 (1) "An application is considered complete only if it contains . . . signature attesting to the truth of the information provided."

Recommendation: The verification form letter requesting further applicant information should be revised to include the same voter declaration that appears on the voter registration application per RCW 29A.08.210(14). In order for a verification form to be complete, the voter must sign the voter declaration when providing the required information.

Provisionally Registered Voters

In the event that a voter's identification is not verifiable, the record is tagged as a provisional registration and a request for further or amended identification is sent to the voter. The form requests a copy of the voter's social security card. Although the request then provides clarification that only the last four numbers of the social security number are required, the words "a Copy of your Social Security Card" are prominent.

WAC 434-324-045(1) "If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number."

The Help America Vote Act of 2002, Sec 303(a)(5)(A)(i) states, "an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number."

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Recommendation: The letter sent to a voter, requesting verifiable identification, must be revised to state that if the voter uses his or her social security number for identification, only the last four numbers are required.

Questionnaires to Cities, Towns, and Districts

February 13, 2007 was the last year the Spokane County Auditor sent a questionnaire to junior taxing districts confirming information regarding incumbents, positions and salary.

WAC 434-215-005 requires "Prior to March 1 of each year, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction."

Recommendation: The Spokane County Auditor's Office must send a questionnaire to all junior taxing jurisdictions each year.

Notice to Political Parties

The major political parties were provided a schedule of 2008 Primary Election activities conducted on behalf of the Spokane County Canvassing Board. Although the Spokane County Auditor requested official observers of the political parties, the number of observers needed was not specified.

WAC 434-261-020 requires, "Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements."

Recommendation: Prior to every election or primary, major political parties are requested to provide election observers. The request must include the specific number of observers required to observe the processing of voted ballots.

Notice of Primary

The Notice of the 2008 Primary published by the Spokane County Auditor omitted two statutory requirements: 1) the names and addresses, and party designations of candidates for the position of precinct committee officer, and 2) the location where voters might obtain replacement ballots. Although the notice did include the location of voting service centers, there was no specific mention of replacement ballots.

RCW 29A.52.311 requires that a notice of primary, "must contain the proper party designations, the names and addresses of all persons who have filed a declaration of candidacy to be voted upon at that primary."

WAC 434-250-310(3) "A county auditor conducting an election by mail, including a county auditor that conducts every election by mail, must state: (c) The location where voters may obtain replacement ballots."

Recommendation: The elections department must include names, addresses and party designations for candidates for precinct committee officer that have filed a declaration of candidacy in the notice of a primary election. Any notice for an all mail election must provide voters with all locations for obtaining a replacement ballot.

Sample and Provisional Ballot

The names and party preferences of candidates on the 2008 Primary sample and provisional ballots were printed in a small sized font. One voter at a voting service center commented that the small font made it difficult to read the information.

WAC 434-230- 010 requires “Sample paper ballots shall be printed in substantially the same form as official ballots.”

WAC 434-230-045(3) “Candidate names shall be printed in a type style and point size that can be read easily. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable.”

Recommendation: Names of candidates on all ballots must be easily read even if this requires using a large or different font. This rule applies to any type of ballot.

Voting Service Centers

The reviewer visited five voting service centers on Election Day. Each of the voting service centers correctly provided materials and signage in compliance with the Americans with Disabilities Act of 1990 and the Help America Voting Act of 2002, and had a sufficient number of voting booths. The voting booths were arranged in such a manner that the secrecy of the voter was not protected.

RCW 29A.44.060 states, “The county auditor shall provide in each polling place a sufficient number of voting booths or voting devices along with any supplies necessary to enable the voter to mark or register his or her choices on the ballot and within which the voters may cast their votes in secrecy.”

Washington State Constitution Article VI, Section 6 mandates, “All elections shall be by ballot. The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot.”

Recommendation: One of the traditional hallmarks of a democratic process is the use of a secret ballot. Voting booths must be arranged in such a manner so as to protect the secrecy of the voter.

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.

Precinct Boundaries

Most of Spokane County precinct lines conform to statute and are drawn in a contiguous manner using physical features. A few precincts, such as precincts 7007, 7008, and 4300, are not compact in shape. These precincts were exempted in the last boundary adjustment based on the provisions in RCW 29A.16.050.

Suggestion: In recent years the population density of Spokane County has shifted. Staff should review those exempted precinct boundaries to confirm that special exemption is still applicable.

Written Procedures

Not all of the tasks administered in an election are supported by written procedures. For example, no written procedures exist describing how staff processes candidate filings, accepts and certifies petitions, or tallies write-in votes. This list is not all inclusive; there may be other processes conducted by the Spokane County Auditor or staff not documented in writing.

A few of the written office procedures submitted for review are out of date and do not reflect current office practices. For example, the written procedures for Spokane County Elections require name changes to be processed prior to the 30 day cut-off for voter registration, and indicate that a voter's previous address is required information. However, the published notice of closing of voter registration, the reviewer's observations, and verbal communication with the elections supervisor, contradict these written procedures.

Suggestion: Written procedures provide consistency in performing tasks. The Spokane County Auditor should continue updating procedures to reflect current practices and policies.

Voting Service Centers

The placement of the Accessible Voting Unit (AVU) at several of the voting service centers required a voter to travel the length room to utilize an AVU. Voters wishing to vote on an AVU may have restricted mobility. It is desirable to minimize the distance of travel for AVU voters when setting up the room.

Directional signs to the voting service centers were numerous and well placed. The signage provided by the Spokane County Auditor to the voting service centers met all requirements. Inside some of the voting service centers informational signs were tacked to the walls, laying on

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tables, or propped in an oblique fashion. These signs were not readable from the vantage point of voters seeking a ballot.

Suggestion: In order to accommodate voters with mobility issues, the distance of travel to voting units and to the voter service table should be kept to a minimum.

Suggestion: A tri-fold display on a table-top would organize and display all required signage without being dependent on available wall space.

Provisional Ballots

Voters casting provisional ballots are provided with a security envelope and an exterior envelope. The exterior envelope still uses terms that are no longer applicable to vote by mail elections. Words such as “polls” and “permanent absentee ballot” are obsolete as Spokane County no longer has polling places or permanent absentee ballots.

Suggestion: The next time provisional ballot envelopes are printed, provisional balloting materials should be revised to reflect current voting practices.

County's Response to Draft Review Report

The Election Certification and Training Program issued a Draft Review Report to the Spokane County Canvassing Board on January 30, 2009. In accordance with WAC 434-260-145, we provided Spokane County 10 days to respond, in writing, to recommendations listed in the draft report.

The Spokane 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.



SPOKANE COUNTY ELECTIONS DEPARTMENT

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6 February 2009

Libby Nieland,
Elections Program Specialist, Office of the Secretary of State
PO Box 40229
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Dear Libby:

I appreciate the dedication, effort and expertise of the staff at the Office of the Secretary of State in conducting these reviews. Discussing current changes in law and reviewing existing requirements with the OSOS staff provides an opportunity to improve our operations.

As a CPA, I am familiar with the professional conduct of audits and reviews. The following suggestions should be considered by the OSOS to improve the current review process.

1. Continue to send out the review program in advance. This gives the county elections office an opportunity to gather appropriate documentation for the reviewer.
2. Perform formal exit interviews of all potential recommendations or suggestions before the reviewer leaves the field. This reduces the possibility of surprises at the County level. It also ensures that County management and the reviewer thoroughly discuss each item, that all relevant information has been brought forward and that any misconceptions are dispelled.
3. Present documentation or timely notification to support the reviewer's conclusions, especially for issues that are based on professional judgment or are time sensitive. For example, if voting booths appear to provide inadequate secrecy, then top management should be informed immediately to observe the condition firsthand.
4. Recognize that some RCWs and WACs require interpretation based on professional judgment and experience. While the comments of the OSOS staff are highly valued, they do not supplant the statutory responsibility or authority of the elected Auditor.

While we don't always agree on details, these reviews are a valuable tool to refine the operations of both the County offices and the OSOS.

Sincerely,

A handwritten signature in cursive script that reads "Vicky M Dalton".

Vicky M Dalton, CPA
Spokane County Auditor

RESPONSE TO RECOMMENDATIONS

Voter Verification Notice

We concur with the recommendation with reservations.

The wording of the letter to the voter has been changed to include the voter declaration. However, the two RCWs cited do not specifically address the contents of the voter verification notice. To ensure completeness and consistency among the counties in the voter verification notice, the Office of the Secretary of State should develop a WAC that specifies the contents of the notice.

Provisionally Registered Voters

We concur with the recommendation.

The wording in the request to the voter has been changed.

Questionnaires to Cities, Towns, and Districts

We concur with the recommendation with reservations.

My office has interpreted this provision to apply to the jurisdictions that are scheduled for candidate filings in each separate election year. Junior taxing districts are confirmed in only the odd-numbered years because that is their regularly scheduled candidate election cycle. However, to comply with the letter of the WAC, we will send annual letters to all jurisdictions for which this office is the filing officer, regardless of the biannual or quadannual cycle that their candidates normally appear on the ballot.

Notice to Political Parties

We do not concur with the recommendation.

Our request for political party observers does not state a specific numeral. With the elimination of poll sites, the emphasis for observers is no longer on a single day for a specific number of observers. With vote-by-mail operations, observers are needed over a considerable period of time (up to 7 weeks) to observe multiple activities, which often occur simultaneously. Therefore, it is counter productive to request a specific number of observers from the political parties.

Our recommendation to the Office of the Secretary of State is to revise WAC 434-261-020 to reflect the current needs of the vote-by-mail environment.

Notice of Primary

We concur with the recommendation.

Sample and Provisional Ballot

We do not concur with the recommendation.

The size of print on the sample ballot was adequate and legible to the vast majority of our voters. Voters with visual impairments can, and do, contact us for custom-prepared sample ballots to fit their individual needs or can use magnifying lenses at our office or at our customer service centers.

Since “can be read easily” is based on professional judgment, we will continue to use our current print design.

Voting Service Centers

We do not concur with the recommendation.

Regardless of the location, placing voting booths to achieve maximum privacy for the voter is always a challenge. Some privacy issues were identified early on Election Day. In one case, the screen of a disability voting device was reflecting in a window; the device was repositioned when the problem was noted. In another case, the voting booth writing surface was visible through a window; the booth was repositioned. These issues were identified and resolved quickly. In one location, foot traffic poses a challenge but the service center workers provided crowd control and monitoring to ensure adequate privacy for the voters.

Evaluation of what constitutes adequate privacy and secrecy is one of professional judgment.

RESPONSE TO SUGGESTIONS

Precinct Boundaries

We do not concur with the conclusion or suggestion.

During the mandated redistricting in 2002, this office invested considerable time and expertise to ensure that the design of precincts was conducive to the efficient and effective administration of the elections process. Since that time, we have continued to invest in the latest GIS software, training of personnel dedicated to precinct management and interaction with other county departments and federal agencies to ensure that our precinct management is current. We continuously monitor our precinct configurations closely for population shifts, jurisdictional changes and administrative efficiencies.

If the Office of the Secretary of State believes that counties are not adequately monitoring their precinct boundaries for compliance, then the OSOS should require that counties periodically attest that they have reviewed their precincts for compliance.

Written Procedures

We concur with the suggestion.

Voting Service Centers

We do not concur with the conclusion or suggestion.

The overall layout of our voter service centers are designed with the assistance of members of our disability advisory board.

The distance of travel and placement of signage are based on professional judgment. While the “tidiness” of signage must be monitored throughout the day, I will continue to rely on the judgment and advice of my disability accessibility advisors.

Provisional Ballots

We concur with the suggestion.

We had already identified the need to redesign the envelopes. However, due to tight budgets, we chose to use as much of the remaining stock of envelopes as possible since the oaths on the envelopes were still in compliance with RCWs and WACs. The new stock is being redesigned.

Conclusion

The Spokane County Auditor seeks to provide high quality service to voters by anticipating voter needs and concerns. Although access to the Spokane County Elections building can be challenging because of limited parking, the Spokane County Auditor has offset this inconvenience by developing the Spokane County Auditor's website, providing a full range of outreach services, and establishing a large number of ballot drop sites and voting service centers.

The Spokane County elections department has been diligent in addressing the recommendations and areas of emphasis listed in the Spokane County Voting Accessibility Plan 2008. The Spokane County Auditor and staff should be complimented for their pro-active support of the committee.

During canvassing of ballots the reviewer observed a procedure that speaks highly of the dedication of the Spokane County Canvassing Board. Whenever the Spokane Canvassing Board encounters a new ballot intent scenario, the Board records the determination in the Spokane County Canvassing Board Manual. A scanned image of the ballot is included with the Board's determination. This excellent procedure maintains consistency of future Board decisions.

Staff of Spokane County Elections is knowledgeable, conscientious, and skillful in conducting elections. Their professionalism was apparent in the high level of ballot security and accountability of the election process.

Addressing the concerns and needs of voters in such a diverse county as Spokane is a demanding endeavor requiring skill, enthusiasm, and resourcefulness. The Spokane County Auditor and staff meet these challenges successfully.

Review Report Prepared by:

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Office of the Secretary of State

Date: February 17, 2009

