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Executive summary

In this chapter, we describe the role of the Chief Electoral Office, set out the results of our audit, and make three new recommendations.

The Electoral Office administers *The Elections Act, 1996*. The Act is complex. The effective administration of this Act is important. In general, the Electoral Office provides good guidance in explaining the Act and its requirements. It works proactively with political parties and candidates to ensure that they understand its requirements.

Since 1997, our Office has expressed concern that the system for reporting election and registered political party finances does not ensure that the information reported and made public is complete. Currently, neither the auditors of the returns nor the Electoral Office verifies the completeness of information reported on the returns. In addition, our Office has expressed concern that the system may not identify all anonymous donations. The Act expects processes to make sure that amounts reported by political parties and candidates are transparent and complete. In 1999, the Standing Committee on Public Accounts (PAC) recommended and the Legislative Assembly concurred that the Electoral Office make changes to address our concerns.

At March 2002, the Electoral Office had not made the recommended changes. In the Electoral Office's view, the recommended changes would contravene the Act. In this chapter, we ask legislators to clarify their expectations on this matter and to change the Act, as they deem necessary.

In addition, we report that the Electoral Office, since its inception in 1998 as a legislative office, has not yet filed an annual report. The Electoral Office has advised PAC that it expects to file a report in the near future. We look forward to this report.

Introduction

The Chief Electoral Officer administers *The Elections Act, 1996* and since 1998 is a legislative officer of the Legislative Assembly. The role of the Office of the Chief Electoral Officer (Electoral Office) is to ensure public confidence in the integrity of the electoral process for the Saskatchewan electorate. It is responsible for the administration of provincial elections, by-elections, enumerations other than during elections, and election finances. It also periodically conducts referenda and plebiscites under *The Referendum and Plebiscite Act* and time votes under *The Time Act*. Also in 2001, the Electoral Office became responsible for *The Political Contributions Tax Credit Act*. Under this Act, the Electoral Office administers and maintains political tax credit system.

Background

The Elections Act, 1996 came into effect January 1, 1997. This Act is an integral part of electoral reform in Saskatchewan. The Act responds to the public's need for information about the electoral process by requiring public disclosure of key information. It requires political parties and candidates to disclose, both during elections and outside of election period, the amount and source of contributions (donations) and of spending. See Exhibit 1 for further detail.

For the two-year period ending March 31, 2002, the Electoral Office administered four by-elections. During this period, the Electoral Office reviewed 11 annual returns from the six registered political parties (political parties), 19 election returns from political parties, and 19 election returns from candidates who ran in the four by-elections.

Overview of Electoral Office's finances

As set out in the *Public Accounts 2000-2001: Volume 2: Details of Revenue and Expenditure* (2001-02 Public Accounts – Volume 2)¹, the Electoral Office spent \$1.2 million in 2000-2001 including \$112,738 reimbursed to registered political parties and candidates for their election expenses. In 2001-2002, the Electoral Office spent \$0.8 million including

¹ To view a copy of Public Accounts, see <http://www.gov.sk.ca/finance/paccts>.

\$61,623 reimbursed to political parties and candidates for their election expenses.

The Act also requires candidates and political parties to report and remit all anonymous donations to the Electoral Office for deposit into the General Revenue Fund. The Act defines anonymous donations as contributions over \$250 where the contributor is not identified. For the two-year period ending March 31, 2002, no political party or candidate reported or submitted any anonymous donations to the Electoral Office.

Audit conclusions and findings

In our opinion, for the two years ending March 31, 2002, the Electoral Office:

- ◆ **had adequate rules and procedures to safeguard and control its assets except for matters reported in this chapter; and**
- ◆ **complied with the authorities governing its activities relating to financial reporting, safeguarding assets, revenue raising, spending, borrowing, and investing except for matters reported in this chapter.**

Completeness of returns and anonymous donations not checked

The current system for reporting election and registered political party finances does not ensure that the returns of political parties (i.e., annual and election) and candidates (i.e., election and by-election) are complete. That is, the system does not ensure these returns report all contributions and expenses.

When legislators debated changes to *The Election Act* in 1996, they wanted to ensure that the new law would increase accountability and would not be subject to misinterpretation. They noted that the prior Act was subject to interpretation in a number of areas including the reporting of political contributions.

Legislators and the public wanted a system that would make the electoral process transparent. They wanted a system that would require

candidates and registered political parties to make public, through the filing of returns, the source and amount of all contributions made to them and to show where they spent those contributions. They wanted a system that would help hold all parties accountable.

Since 1997, our Office has reported concerns both about the processes used to ensure that returns report the source and amount of all contributions and expenses, and about the processes used to identify anonymous donations.

The Standing Committee on Public Accounts (PAC) reviewed these concerns on a number of occasions.² In March 1999, PAC recommended that *the Electoral Office should issue directives requiring political parties' auditors to submit audit reports to the Electoral Office that indicate whether all contributions received and all expenses incurred by the political parties are reported in their returns; and requiring candidates to use specific procedures to receive and disburse money and to submit audit reports to the Electoral Office that indicate whether candidates have complied with those procedures.*³ The Legislative Assembly concurred with PAC's recommendation.

In 1998, the Electoral Office issued guidance to campaign officers for political parties and to business managers for candidates. This guidance includes specific procedures for the handling of the receipt and disbursement of money. These procedures help ensure the completeness of information reported in the returns.

However at March 2002, the Electoral Office had not issued directives that require auditors of returns to report in the way that PAC or the Legislative Assembly expected. The Electoral Office's view is that setting such requirements would contravene the Act. Its guidance⁴ to auditors

² November 25, 1998, January 6, 1999.

³ Recommendation 64, p.30, Standing Committee on Public Accounts, Third Report of the 4th Session of the 23rd Legislature dated March 29, 1999.

⁴ In its written guidance, the Electoral Office tells the auditors of returns three things. First, the auditors have no duty to carry out procedures aimed at determining the completeness of information reported in the returns unless circumstances raise suspicion for the auditors that the information on the returns is incomplete or in error. Second, the auditors' duty is limited to ensuring the accuracy of information reported on the returns. Third, the auditors can include a statement, in their audit report, that indicates that they have not checked to ensure the returns are complete.

reinforces its view that the Act does not expect auditors to determine the completeness of the returns.

As expected, the auditors of most returns reported that they did not verify that the returns were complete. The Electoral Office did not take additional or alternate steps to verify that the returns were complete.

In September 2001, the Chief Electoral Officer shared her view with PAC. PAC asked the Electoral Office and our Office to work together to resolve our different viewpoints. As requested by PAC, we met with the Chief Electoral Officer to discuss this matter. We reviewed the guidance provided by The Canadian Institute of Chartered Accountants⁵ with respect to audits under *The Canada Elections Act*. We reviewed other election acts and guidance. We obtained legal advice. In March 2002, the Chief Electoral Office obtained legal advice to support its view and is administering the Act consistent with its legal advice. We exchanged our differing legal advice.

We are unable to reach a common understanding with the Electoral Office on this matter.

At this time, no one verifies the completeness of returns. Without a process to ensure that returns report all contributions received, the Electoral Office, legislators, and the public do not know if the returns identify all anonymous donations that political parties and candidates received. As a result, legislators and the public have no assurance that the political parties and candidates have remitted anonymous donations to the Electoral Office for deposit to the General Revenue Fund.

In addition, because no one verifies that the returns report all expenses incurred, the Electoral Office, legislators, and the public do not know if the political parties' and the candidates' election expenses are within the spending limits set by the Act.

⁵ The federal audit system provides its auditors with direction similar to that provided by the Electoral Office. This direction is set out in *A Guide for the Auditor of a Candidate in a Federal Election Pursuant to The Canada Elections Act*. As the federal guide states, it bases its views on its interpretation of *The Canada Elections Act*. It also further indicates that, in view of differences between federal and provincial legislation, it is not appropriate to rely on the guide for the audit of a candidate in a provincial election.

Given the importance and sensitivity of the electoral system, it is vital that the election finances system includes processes to make sure that contributions and expenses reported are complete. This view is consistent with the intent of the Act.

Given the Electoral Office has not accepted the PAC's 1999 view and direction on this matter in which the Legislative Assembly has concurred, if the legislators want a system that includes verification of the completeness of returns, legislators should consider changing the Act. They could change the Act to set out clearly the duty of auditors of returns to report on the completeness of returns, or to report on the compliance with the Electoral Office's rules to ensure completeness, or both.

- 1. We recommend that *The Election Act, 1996* should be changed to require auditors of returns to report whether the returns of the candidates and of the registered political parties present fairly the contributions received and expenses incurred.**
- 2. We recommend that *The Election Act, 1996* should be changed to require auditors of returns of political parties and candidates to report on compliance with the Electoral Office's rules to ensure completeness of returns.**

Improved public accountability required

The Electoral Office has not yet provided the Legislative Assembly with its annual report as required by the Act.

The Act requires the Electoral Office to report its progress and activities each year. Typically, this takes the form of an annual report.

Since its inception as a legislative office in 1998, the Electoral Office has not prepared an annual report.

- 3. We recommend that the Electoral Office should prepare and submit to the Speaker its annual report as required by *The Election Act, 1996*.**

Chapter 9 – Office of the Chief Electoral Officer

On September 27, 2001, PAC met, discussed, and concurred with a similar recommendation. At this meeting, the Chief Electoral Officer advised PAC that it would prepare an annual report for the period May 1998 to December 2001 and that it expected to submit the report in the winter of 2002. At April 2002, the Electoral Office told us it plans to issue the report in the summer of 2002.

Exhibit 1 – Key provisions of *The Elections Act, 1996*

Contributions: Candidates and registered political parties must disclose all contributions received. Contributions include gifts, loans or any forms of assistance (e.g., money, goods, and services). Candidates and registered political parties must disclose on the returns the name of the contributor and the amount contributed for any contribution greater than \$250 in a year.

Spending limits: Candidates and registered political parties may only incur election expenses as defined by the Act to maximums set out in the Act. For example, for 2001 a candidate in a southern constituency could incur expenses up to the greater of \$41,881 or \$2.79 times the number of the names on the voters list. A registered political party could incur election expenses up to \$698,009.

Reimbursement of eligible expenses: The Electoral Office reimburses 50% of eligible expenses (up to maximum spending limits) to candidates who receive at least 15% of the vote cast in an election. The Electoral Office reimburses 33% of eligible expenses up to the maximum spending limit to registered political parties who have endorsed candidates who received at least 15% of the vote cast in aggregate in an election.

Election returns: Both candidates and registered political parties must submit audited election returns and supporting documentation. Election returns for candidates must show both their contributions received and the election expenses incurred. Candidates must file returns with the Electoral Office within three months after the election. Election returns for registered political parties must show the election expenses incurred. Parties must file election returns with the Electoral Office within six months of the election. The Electoral Office has the right to request additional supporting information.

Annual returns for registered political parties: Registered political parties must file each year, within four months of the party's fiscal year end, audited annual returns showing contributions received, and expenses incurred for that fiscal year along with supporting documentation. The Electoral Office has the right to request additional supporting information.

Information available to public: The Electoral Office maintains return information and supporting documents and makes them available for public review. The Electoral Office must prepare summary reports of elections and of the Electoral Office's progress and activities.

Anonymous donations: Business managers of candidates and chief official agents of registered political parties shall not accept anonymous contributions that exceed \$250. If the business manager or chief official agent cannot identify the contributor, the Act deems the contribution as an anonymous donation. Business managers and chief official agents are required to remit these amounts to the Chief Electoral Office for forfeit to the General Revenue Fund.

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