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Main points

In this chapter, we report two matters. First, in common with many other public agencies, the Office of the Chief Electoral Officer could improve the content of its annual report to provide better information on its performance. Also, The Elections Act, 1996 requires the Electoral Office to table a report on its progress each year. In February 2004, the legislators and public finally received the Electoral Office's first annual report. This report includes information about the Electoral Office and its activities from May 1998 to December 31, 2002.

Informing legislators and public about performance helps to maintain and build public confidence. The Electoral Office's primary role is to maintain the integrity of the provincial electoral process. The integrity of the process is central to the public's confidence in elections. It is essential that legislators and the public receive timely, understandable information from the Electoral Office on its performance.

Second, the Electoral Office has not taken sufficient steps to require political parties to provide details of certain contributions from trust funds and constituency associations as the Act requires. The public and legislators want to know who gives money to parties and candidates. In 1997, the Assembly improved the Election Act to clarify the disclosure and reporting of details where parties and candidates receive money from constituency associations, corporations, and trust funds. It requires parties and candidates to report and disclose the persons who give money to these organizations.

Two registered political parties included investment income as contributions on their returns. For one party, this income was earned on money in a trust fund, while the second on money held by constituency associations. The Electoral Office did not obtain the names of the original donors or the amounts donated in these cases. Disclosure of contributions is key to a transparent electoral process.

Introduction

The Chief Electoral Officer administers *The Elections Act, 1996*. Since 1998, the Chief Electoral Officer is an officer of the Legislative Assembly.

The primary role of the Office of the Chief Electoral Officer (Electoral Office) is to ensure public confidence in the integrity of the electoral process in Saskatchewan. It is responsible for the administration of provincial elections, by-elections, enumerations other than during elections, and election finances.

In addition, the Electoral Office periodically conducts referenda and plebiscites under *The Referendum and Plebiscite Act* and time votes under *The Time Act*. Also, the Electoral Office administers and maintains the political tax credit system under *The Political Contributions Tax Credit Act*.

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 information publicly, both during and outside of the election periods. This information includes spending as well as the amount and source of contributions and spending.

For the year ending March 31, 2003, the Electoral Office administered three by-elections. It reviewed six annual returns¹ from the six registered political parties, three election returns from political parties,² and three election returns from candidates who ran in the October 2002 by-election.

¹ Under Section 250(4) of *The Election Act, 1996*, registered political parties must file annual returns within four months of the end of the fiscal year to which the return relates (i.e., file on April 30th, 2002 for December 31st, 2001 year-end).

² Under Section 251(1) of *The Election Act, 1996*, the political parties must file the election expense returns within six months after the date of the polling day. For example, the Battleford-Cutknife by-election polling date was March 17, 2003. The parties had to file their related election expense returns by September 18, 2003.

Overview of Electoral Office's finances

The Annual Report of the Chief Electoral Officer of Saskatchewan Compendium 1998-2002 provides information on the Office's expenditures for the fiscal years 1998-1999 to 2001-2002.

The Public Accounts 2002-03: Volume 2: Details of Revenue and Expenditure reports that the Electoral Office spent \$1.2 million in 2002-03 (\$0.8 million in 2001-02). To view a copy of this report, see <http://www.gov.sk.ca/finance/paccts>.

Audit conclusions and findings

In our opinion, for the year ending March 31, 2003, the Electoral Office:

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

The following sets out our detailed audit findings.

Improved public accountability required

The Electoral Office needs to provide legislators with timely and complete annual reports.

The Election Act, 1996 requires the Electoral Office to report its progress and activities each year in accordance with *The Tabling of Documents Act, 1991*. The Electoral Office must submit its report to the Speaker each year within 120 days after its period end. The law does not set the reporting period of the Electoral Office.

In June 2002, and again in June 2003, the Standing Committee on Public Accounts (PAC) recommended that the Electoral Office prepare and submit to the Speaker its annual report as required by *The Election Act*,

1996. At its October 2002 meeting and in its subsequent report, PAC strongly recommended that the Electoral Office's annual report be tabled in the Assembly by March 2003. PAC included this recommendation in its June 2003 report to the Assembly.

The Electoral Office did not provide legislators with a report when expected by PAC or by law. On February 18, 2004, the Speaker tabled the Electoral Office's first annual report for the period from May 12, 1998 to December 31, 2002 (2002 Report). At the date of this report, the Electoral Office has not provided legislators with its 2003 Report.

The CCAF provides public agencies with guidance to help them improve the quality of their public reporting. This guidance is contained in a publication called *Reporting Principles – Taking Public Performance Reporting to a New Level* (Principles). The Principles recognize that legislators and the public need adequate information about agency plans and the achievement of those plans.

The Principles recognize annual reports should provide information on the following key areas: the agency's mission, vision, goals, and objectives and on how the agency has performed in achieving its objectives from both financial and operational perspectives. In addition, reports should set out the key risks that the agency faces in achieving its objectives.

When agencies use these Principles to prepare their reports, they provide legislators with more useful information on their progress. To help the Electoral Office improve future reports, we assessed the 2002 Report against the Principles. In addition, we looked at annual reports of other electoral offices.

Reports of many electoral offices currently focus on activities. The Chief Electoral Office of Canada is an exception. It provides information similar to that suggested by the Principles. Each year, it provides legislators with a report against its previously published plan. It uses the results of surveys to help measure and evaluate its performance.

The Electoral Office's 2002 Report describes its mandate of directing and supervising the administrative and financial conduct of provincial electoral events, its mission of maintaining a state of provincial election readiness, and its goal to facilitate provincial electors, registered political parties, and

candidates in the exercise of their democratic rights. It highlights its key risks and key future directions. It provides detailed explanations of its activities.

The 2002 Report did not set out how the Electoral Office determines and measures its success (e.g., performance measures). In addition, while the 2002 Report clearly explains its activities and their cost, it does not indicate the extent to which these activities helped the Electoral Office to achieve its goals. In addition, the 2002 Report does not provide the overall financial results of the Electoral Office (e.g., financial statements).

1. We recommend that the Chief Electoral Office include the following in its future annual reports:

- ◆ **performance measures;**
- ◆ **the extent to which activities achieved goals; and**
- ◆ **overall financial results.**

Disclosure of contribution sources needed

The Electoral Office did not require registered political parties to disclose, in their annual returns, the source of certain contributions as expected by *The Elections Act, 1996*.

In 1996, Members of the Assembly raised concerns about the lack of disclosure of political contributions that registered political parties received from special funds, constituency associations, and federal political parties. The concern related to the need to know who gave the money to these organizations who later gave money to political parties and candidates. At that time, the returns of the registered political parties did not disclose the details of the original sources of contributions made to them in excess of \$100.

The then Chief Electoral Officer investigated these concerns. In June 1996, the Assembly passed a new law, *The Election Act, 1996* (new Act). The new Act came into effect January 1, 1997. This law sets out, in more detail, (i.e., in section 240) the information that constituency associations,

corporations, and trust funds must provide when they contribute to a registered political party or candidate.

In June 1997, the then Chief Electoral Officer issued his report to the Assembly entitled *On the Practices of the Registered Political Parties Respecting the Reporting of Political Contributions*. In this report, he notes trust funds, constituency associations, and corporations contributed money to the then registered political parties without disclosing the name of the original donor or the amount contributed. He further noted a decision was made not to prosecute given the following circumstances. The possible violations were regulatory in nature; the related requirements of the previous Elections Act (old Act) were unclear; and the Electoral Office and Assembly had accepted the disclosure and filing practices of the parties for 18 years.

When a party or candidate does not disclose the names and amounts of contributions exceeding prescribed limits (\$100 – old Act; \$250 – new Act), the law (i.e., section 221 (in old Act) and section 241 (in new Act)) expects the amounts to be forfeited to the Minister of Finance for deposit in the General Revenue Fund. The Electoral Office did not pursue, collect, or deposit any money under the old Act because of its 1997 report. Rather, on the advice of the Electoral Office and PAC, the Board of Revenue Commissioners cancelled the collection of this money for 1996 and the six prior calendar years.

In addition, in his 1997 report, the then Chief Electoral Officer stated that the new Act was clear. He stated that it requires the reporting and disclosure of the names of the original donors to constituency associations, corporations, and trust funds whose money is used to make up the money contributed to the party or candidates. He noted that it requires this reporting and disclosure if the amounts each original donor contributes in a year exceed \$250.

Concerns with the reporting practices of registered political parties continue. In our audit, two registered political parties reported in their 2001 annual returns contributions in the form of investment and interest income in amounts exceeding \$250 in a year. These contributions totalled \$73,384 (i.e., \$3,334 for one party, \$70,000 for the other).

Each registered political party accepted this money. In one case, the money was received from four constituency associations, and in the second case, the money was received from a trust fund. The returns of both parties do not disclose the names of the original donors who gave contributions in a year exceeding \$250 and whose money was used to make up the money (funds) the parties accepted as contributions.

We recognize that persons could have donated the money making up the funds prior to the January 1, 1997—the date the new Act came into force. We expected the Electoral Office to take steps to determine if the investment income was based on amounts contributed prior to this date or later. If contributed later, we expected the Electoral Office to require the parties and candidates to provide the details expected by law on the additional contributions. The Electoral Office did not require the parties to provide this information. The new Act gives the Electoral Office authority to require this information (section 240(12)). In addition, the Electoral Office does not know if there are contributions to forfeit for deposit into the General Revenue Fund as anonymous donations.

In our opinion, the Act requires political parties and candidates to report the original source of all contributions exceeding \$250. If disclosure is not made, then the money must be forfeited for deposit to the General Revenue Fund. Disclosure of contributions is key to a transparent electoral process.

- 2. When returns from parties or candidates include contributions from investment or interest income from constituency associations, corporations, or trust funds, we recommend that the Chief Electoral Office obtain, if any, the names of each original donor who gave more than \$250 in any year after December 31, 1996 and the amount each gave.**