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Missouri State Auditor

Board of Election Commissioners, City of St. Louis

December 2011
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<http://auditor.mo.gov>



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CITIZENS SUMMARY

Findings in the audit of the Board of Election Commissioners, City of St. Louis

Voter Registration	The Board of Election Commissioners, City of St. Louis, (BEC) does not routinely review and update the database of registered voters, and over 2,400 voters were registered in the city and elsewhere in the state. The BEC has made significant improvements in this area since our prior audit in 2004.
Election Services Fund	The BEC deposited the additional 5 percent of election costs charged and collected to the General Fund instead of the Election Services Fund, so it is not clear the monies were used for training programs and additional supplies or equipment to improve the conduct of elections, as required by state law.
Closed Meetings	The BEC did not comply with the Sunshine Law with respect to closed meetings. Roll call votes to go into closed session were not taken and/or recorded in the minutes, the specific reasons for closing meetings were not included in the minutes, and the closed minute meetings indicate unallowable topics were discussed in closed session.
Disbursements	The BEC had no documentation that it solicited bids for five procurements.
Campaign Finance	The BEC does not adequately track all required candidate reports, so there is no assurance complete and accurate candidate reports are filed when due and late fees assessed for violations. For five candidate committees reviewed for the year ended June 30, 2011, two did not file a 40 day report, four did not file the 30 day after report, and three did not file the 8 days before or quarterly reports. In addition, for the April 5, 2011 ballot, 11 out of 29 committees failed to file an organization statement, and three candidates failed to file a termination statement.

In the areas audited, the overall performance of this entity was **Fair**.*

American Recovery and Reinvestment Act 2009 (Federal Stimulus)	The Board of Election Commissioners, City of St. Louis, did not receive any federal stimulus monies during the audited time period.
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*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

All reports are available on our website: <http://auditor.mo.gov>

Board of Election Commissioners, City of St. Louis

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THOMAS A. SCHWEICH

Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Members of the Board of Election Commissioners
City of St. Louis, Missouri

We have audited certain operations of the Board of Election Commissioners, City of St. Louis, in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended June 30, 2011. The objectives of our audit were to:

1. Evaluate the board's internal controls over significant management and financial functions.
2. Evaluate the board's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the board, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the board's management and was not subjected to the procedures applied in our audit of the board.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures.

The accompanying Management Advisory Report presents our findings arising from our audit of the Board of Election Commissioners, City of St. Louis.



Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	Harry J. Otto, CPA
Director of Audits:	Alice M. Fast, CPA, CGFM, CIA
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In-Charge Auditor:	Steven Re, CPA
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Board of Election Commissioners, City of St. Louis

Management Advisory Report

State Auditor's Findings

1. Voter Registration

Many city voters are registered to vote in both the city and another location, which increases the risk of voter fraud occurring during elections. At our request, the Board of Election Commissioners (BEC) generated a list of potential duplicate registered voters as of June 23, 2011, from the Missouri Centralized Voter Registration (MCVR) database maintained by the Missouri Secretary of State, which showed more than 2,400 voters were registered in both the city and elsewhere in the state. Of these, 231 voters were registered twice in the city and approximately 1,050 voters were listed as active by both the city and another election authority.

The BEC does not have written procedures requiring MCVR records be reviewed for duplicate registered voters. The BEC can review and update voter registration records for duplicate registered voters throughout the state through the MCVR database. However, a review had not been performed since at least November 5, 2010, when the employee responsible for reviewing and updating duplicate voter registrations left employment. In addition, no documentation could be provided to show the review was done prior to this employee's departure. BEC management indicated they were unaware this review had not been performed recently. On June 15, 2011, there were 224,994 voters registered in the city, of which 194,330 were active.

It is apparent the BEC has made improvement in this area, when the 2,400 duplicate registrations noted during the audit are compared to over 15,000 noted in our prior audit (report 2004-040); however, more improvement is needed. The BEC, along with all election authorities, is mandated under the National Voter Registration Act of 1993 (NVRA), to conduct a program to maintain the integrity of voter registration rolls. In addition, NVRA, Section 8, requires states to maintain accurate and current voter registration lists by identifying persons who have become ineligible due to having died or moved outside the jurisdiction.

Recommendation

The BEC periodically review and investigate potential duplicate voter registrations to ensure voter registration records are as accurate as possible.

Auditee's Response

The BEC provided the following written response:

The BEC appreciates and fully complies with its responsibilities under the NVRA. This is reflected in its Mission Statement that states, in relevant part, that the mission of the BEC is to insure that "voter files are kept accurate and up-to-date."

In furtherance of that mission, the BEC utilizes various sources available to it to discharge this responsibility, including (i) the Duplicate Voter Registration Report (the "DVR") generated by the Missouri Centralized Voter Registration ("MCVR") system maintained by the Missouri Secretary



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of State (the "SOS") of voters who may be registered in more than one county in Missouri; (ii) monthly reports from the 22nd Judicial Circuit of convicted felons and persons who have been adjudged incompetent; and (iii) monthly reports from Missouri Department of Health and Senior Services of St. Louis City residents who have died. The BEC also receives voter registration and change of address information from Missouri Department of Revenue driver's license offices and various social service agencies, follows up on returned mail to try to identify voters who may have moved, and cross-checks its voter registration database with counties in Illinois. Any and every suspected violation of a voting law is promptly investigated and the results reported to the appropriate law enforcement officials if warranted.

The Report states (Page 4) that "[m]any city voters are registered to vote in both the city and another location." Although the BEC goes to great lengths to avoid duplicate registrations, it is important to place the word "many" in perspective. As a practical matter, the more than 2,400 potentially duplicate voter registrations found by the auditors represent just over 1% of the nearly 225,000 registered voters in the City of St. Louis. In contrast, the auditors at the time of the last audit of the BEC in 2004 found more than 24,000 questionable voters which was approximately 9.6% of the more than 249,000 registered voters in the City of St. Louis then. Due in part to the introduction of a centralized voter registration database, the BEC has made significant strides to improve its performance in this area in the last seven years.

The BEC conducts an investigation after every federal election of voting activity in surrounding counties, including Illinois, with a view to identifying any instances of suspected voting irregularities (which encompasses not only duplicate voter registrations, but also voters registered at a location which is a vacant lot or which contains a derelict building), with a view to turning over evidence of any such irregularity to the U.S. Attorney and/or the Circuit Attorney for the City of St. Louis. This vigilance on the part of the BEC has resulted in no less than fourteen convictions for voter fraud in the past six years.

There are some election authorities in Missouri that do not regularly check the Duplicate Voter Registration Report ("DVRR") available through the MCVR system. As a result, the SOS periodically issues a written reminder to such election authorities reminding them of their voter registration list-monitoring obligation. The BEC has never received such a reminder from the SOS. Although there is no specific statutory or regulatory mandate concerning the frequency with which list maintenance activity must be performed, it is impossible for the BEC to eliminate all duplicate voter registrations in its database if other election authorities are not fulfilling their responsibilities in this regard.



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In analyzing the issue of duplicate voter registrations, it is important to understand that on any given day the DVRR will disclose the names of thousands of voters who appear to be registered in more than one county. For example, the DVRR for June, 2011, which was provided to the auditors, contained more than 5,000 duplicate names; the one for September 2011, contains more than 3,000 such names; and the DVRR for October, 2011 contains nearly 3,600 names. This is because there is no consistency among the various counties in Missouri as to when they check the DVRR and update their records. There is also one election authority in Missouri that is not connected to the MVCRR system, which means that the names of voters who might have been registered in that county at one time and are now registered in St. Louis City (or vice versa) always appear on the DVRR.

In checking or "working" the DVRR, staff at the BEC checks every name on the report to verify that the information is accurate and that each voter listed as being registered in both St. Louis City and another county is the same person (i.e., has the same date of birth and/or the same last four digits of their Social Security Number). If so, and the voter's most recent activity is in our jurisdiction, staff merges that individual's voter registration record from the other jurisdiction with ours. Conversely, if the voter's most recent activity is in the other jurisdiction, then staff will delete the voter's registration information from our database. If, in each instance, the "other jurisdiction" is not similarly working the DVRR, then that particular voter's name will appear on the next DVRR printed and worked. In addition, as noted above, since there is one county in Missouri that has its own voter registration database that is not part of MVCRR, the names of voters registered both there and in St. Louis City will always appear on the DVRR, even though the BEC has properly worked previous Duplicate Voter Registration Reports.

There are other reasons why names appear on the DVRR. For example, a change in the criteria by which MVCRR searches for duplicate names may result in more names appearing on the DVRR than before. For example, in comparing the October DVRR with the September list we noticed the addition of the names of some voters that one would have expected to appear on the list previously. This was because MVCRR was previously unable to identify as a duplicate voter someone who was registered in one county under a maiden name and in a different county under a married name. Now that such identification is possible, additional duplicate voter registrations will be able to be deleted.

In an effort to further improve its performance in this area the Democratic and Republican Supervisors in the Registration Department are now working the DVRR each month and signing off on the Report after it is worked to verify that the review has been completed. This monthly review requirement is being incorporated in a written Registration Department Procedures Manual that is being developed to insure that anyone new to the BEC will know what is required in this regard. We also anticipated dividing



this work among several staff members during a busy election cycle so that the Report can be worked more frequently.

2. Election Services Fund

The BEC did not deposit the additional 5 percent of election costs charged and collected to the Election Services Fund as required. As a result, it could not be determined whether these monies were spent in compliance with state law. The monies were deposited to the city's General Fund. BEC management indicated they were not aware the revenues should be credited to the Election Services Fund. The BEC charged and collected \$64,743 for the additional 5 percent of election costs during the year ended June 30, 2011.

Section 115.065.4, RSMo, states the Election Services Fund shall be budgeted and expended at the direction of the election authority and shall not be used to substitute for or subsidize any allocation of general revenue for the operation of the election authority's office without the express consent of the election authority. The Election Services Fund shall be used by the election authority for training programs and purchase of additional supplies or equipment to improve the conduct of elections.

Recommendation

The BEC ensure the 5 percent election revenues are deposited to the Election Services Fund and budgeted and spent in accordance with state law.

Auditee's Response

The BEC provided the following written response:

The BEC agrees with the recommendation and notes that it is developing a Election Procedure Manual that will set forth written procedures for every department applicable to the conduct of an election that will include a section on election costs and the proper accounting thereof. This Manual will be finalized and in effect for the Presidential Preference Primary Election scheduled for February 7, 2012.

3. Closed Meetings

Procedures for conducting and documenting meetings need improvement.

- The minutes for open meetings do not document the specific reasons for closing the meeting. For example, the open meeting minutes normally indicate the Board has adjourned its regular meeting and entered into closed session to discuss legal, personnel, purchasing, and real estate matters.
- A roll call vote to go into a closed session is not taken and/or recorded in the minutes.
- The closed minutes were not sufficient to demonstrate that issues discussed were allowable under Chapter 610, RSMo, the Sunshine Law.



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Some of these issues included approval for payment of legal fees, a Christmas party for the office staff, payment of some vendor bills, employee training, and voter registration cards.

Chapter 610, RSMo, provides that the question of holding a closed meeting and the reason for the closed meeting be voted on at an open meeting by a roll call vote and requires minutes be prepared for all closed meetings. The law also provides that public governmental bodies shall not discuss any other business during the closed meeting that differs from the specific reasons used to justify such meeting, and limits what types of topics can be discussed in closed meetings.

Recommendation

The BEC ensure compliance with the Sunshine Law regarding closed meetings.

Auditee's Response

The BEC provided the following written response:

The BEC agrees with the recommendation and is pleased to report that, even while the audit was continuing, it had implemented the changes recommended by the auditors. This includes (i) stating on the notice that is posted announcing a Board meeting that the Board may go into closed session pursuant to RSMO Section 610.021 to discuss legal, personnel and real estate matters, if necessary; (ii) reflecting in the minutes of open session a roll call vote to go into closed session; (iii) documenting in the minutes of the closed session that any issues discussed were permissible under the Sunshine Law; (iv) recording the roll call vote of any matters voted on in closed session; and (v) reflecting in the minutes of the open session the roll call votes, if any, taken during closed session.

4. Disbursements

Although BEC personnel indicated bids were probably solicited, no documentation of bids was provided for the following items:

Item or Service	Amount
Transportation costs	\$ 12,000
Computer equipment	19,848
Handicap equipment	27,961
Election supplies	2,150
Computer maintenance	30,000

As a result, there is no assurance the BEC is selecting the most economical cost when obtaining goods or services and is in compliance with its informal bid policy.

BEC personnel stated they use vendors approved by the City of St. Louis Supply Division when possible or solicit three bids for goods or services greater than \$1,000. Bidding for major purchases helps ensure the BEC



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receives fair value by contracting with the lowest and best bidders. Bid documentation should include a list of vendors contacted, a copy of the bid specifications, copies of all bids/proposals received, justification for awarding the bid/proposal, and documentation of discussions with vendors.

Recommendation

The BEC maintain adequate documentation of all bids, including the reasons why bids are not solicited and why certain bids are selected.

Auditee's Response

The BEC provided the following written response:

The BEC agrees with the recommendation and is writing a formal policy regarding the purchase of goods and services that will (i) detail when bids need to be solicited and whether such bids need to be in writing; (ii) require that verbal bids be documented and that all bids be retained for at least three years; and (iii) set forth criteria by which bids are to be evaluated and when factors other than cost should be considered (such as timing; a vendor's prior history with the BEC and/or the City of St. Louis; etc.). It should be noted that the BEC has always requested bids for major purchases of goods and/or services and then selected the vendor whose bid best served the interests of the taxpayers of the City of St. Louis. Per your recommendation, that practice will now be documented.

5. Campaign Finance

The BEC did not perform several duties related to monitoring campaign finance issues to ensure campaign disclosure reports were filed correctly and timely. In addition, the BEC does not maintain an adequate filing, coding, and cross indexing system; notify candidates for failing to file; assess late filing fees; or notify the Missouri Ethics Commission (MEC) of violations.

In April 2010, the BEC entered into a Local Campaign Finance Reporting Waiver Agreement with the MEC. As a result of this agreement, only candidate committees to elect committeemen, committeewomen, members of the Board of Education, and trustees of the Junior College District, or committees formed to support/oppose ballot measures only in the City of St. Louis are required to file campaign reports with the BEC.

5.1 Coding and index system

Several candidate reports were not filed with the BEC as required; however, there was no indication the BEC noted the nonfiling or attempted to resolve or report the non-compliance to the MEC. The BEC has not developed a sufficient and complete coding and cross-indexing system to track all required reports. As a result, there is no assurance required reports are filed when due, the reports filed are reviewed for completeness and accuracy, the person or committee is notified of missing reports, the MEC is notified of violations, and any late fees are assessed.

Between July 1, 2010, and June 30, 2011, there were four elections with 12 candidates who should have filed campaign reports. We reviewed reporting



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for 5 of the 12 candidate committees and noted 2 did not file a 40 day report, 4 did not file the 30 day after report, and 3 did not file the 8 days before or quarterly reports as required by law. In addition, the BEC did not notify four of the five candidates or the MEC of the violations. The BEC issued a certificate of election to the winners of these elections although the committees had not filed the required reports with the BEC.

Section 130.056.2, RSMo, states each appropriate election officer accept reports and statements required to be filed with the person's office; develop for the officer's constituency a filing, coding, and cross-indexing system; make the reports and statements filed available for public inspection and copying; preserve such reports and statements for a period of not less than 5 years from the date of receipt; examine each report and statement filed to determine if the reports and statements appear to be complete and filed within the required time; notify a person required to file a report or statement the person has failed to file a report or statement as required by law; and notify the MEC if the person has reasonable cause to believe a violation has occurred. In addition, requirements for disclosure reports are set forth in Section 130.041, RSMo, and the required times to file are specified in Section 130.046, RSMo.

5.2 Statement of organization and termination

The BEC does not ensure all candidates and committees file a statement of organization and a termination statement. As a result, there is no assurance candidates and committees are filing campaign reports with the BEC as required by law. We obtained a list of all candidates and issues appearing on the April 5, 2011, ballot and noted the BEC did not have a statement of organization on file for 11 of 29 committees. In addition, three candidates failed to file a termination statement.

Section 130.021.5, RSMo, states the treasurer or deputy treasurer acting on behalf of any person or organization or group of persons and any candidate who is not excluded from forming a committee in accordance with the provisions of Section 130.016, RSMo, shall file a statement of organization with the BEC. In addition, Section 130.021.8, RSMo, provides upon termination of a committee, a termination statement indicating dissolution shall be filed not later than 10 days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed.

Recommendations

The BEC:

- 5.1 Develop a coding and index system to track failure to file and late filing of campaign finance reports; assess late filing fees as required; and notify candidates, committees, and the MEC when reports are not filed.



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- 5.2 Ensure all candidates and committees file a statement of organization and a termination statement with the BEC as required.

Auditee's Response

The BEC provided the following written response:

The BEC agrees with the recommendations and has begun to develop a tracking system that will be implemented for the December 20, 2011 Special Election to fill a vacancy in the 5th Ward and utilized for all elections thereafter. In this regard, it should be noted that, with changes in the Campaign Finance Disclosure reporting requirements implemented by the MEC in April, 2010, the BEC's responsibility for monitoring the filing of campaign finance reports is limited to candidate committees to elect (i) party city central committeemen and women, (ii) members of the Board of Education, and (iii) trustees of the Junior College District, and committees formed to support/oppose local ballot measures.

Written procedures will be developed to track the filings required of all committees for which the BEC is responsible, and to ensure that all candidates (including those required to file their campaign finance disclosure reports with the MEC) file with the BEC a Statement of Committee Organization or Exemption Statement at the start of a campaign and a post-election Statement of Committee Termination or other document reflecting the committee's status (such as converting to a continuing committee). In the interest of transparency, the BEC will also provide a link on its website so that anyone who is interested can check the status of a committee's campaign finance report filings.

It should also be noted that the BEC did not issue to any winning candidate a certificate confirming their having won their election without verifying that all required campaign finance disclosure reports had been filed. It did, however, fail to document such compliance in each instance. Such failure will not recur with the implementation of the tracking system described above.

Board of Election Commissioners City of St. Louis

Organization and Statistical Information

The Board of Election Commissioners for the City of St. Louis exists pursuant to Section 115.017, RSMo, and was originally established under city ordinance in 1878. The four members of the board are appointed to four year terms by the Governor with the advice and consent of the Senate. Two members shall be from one major political party and two members shall be from the other major political party. The chairman and the secretary must not be from the same political party.

The board's primary duties are to conduct all elections in the City of St. Louis, maintain voter registration records, maintain and review campaign finance reports, and estimate and collect the cost of elections from the state and local political subdivisions who have candidates or issues on the ballot. The board is authorized 24 full-time employees who serve at the pleasure of the board. The board receives most of its funding from the City of St. Louis. Other revenue sources are the reimbursement of election costs from the state and other political subdivisions, and the sale of voter registration lists, precinct maps, copies, and certificates of residency. Monies received are turned over to the City of St. Louis Office of Treasurer for deposit and reported to the Office of Comptroller. Following approval of vouchers by the board, disbursements are handled through the City Comptroller and Treasurer offices. The board does not maintain separate bank accounts. The board's annual operating budgets are set by the Board of Estimate and Apportionment and the Board of Aldermen.

The city is divided into 28 wards and 203 voting precincts. The board attempts to recruit over 1,200 election judges and election day workers and uses about 120 polling places for a citywide election. The board also conducts registration and absentee voting visits to about 20 nursing homes for a citywide election. As of June 16, 2011, there were 194,330 active and 30,664 inactive voters registered in the city. The cost to conduct a citywide election is over \$300,000, excluding routine full-time board personnel and operational costs. The following table shows the number of registered voters, number of ballots cast, and the voter turnout for the four elections held during the year ended June 30, 2011.

Election	August 2010	November 2010	March 2011	April 2011
Registered Voters	183,838	188,480	194,060	194,640
Votes Cast	34,152	91,907	13,094	39,474
Voter Turnout	18.58%	48.76%	6.75%	20.28%



Board of Election Commissioners, City of St. Louis
Organization and Statistical Information

Board Members

The board member positions and political party affiliation on June 30, 2011, are listed below:

Joan M. Burger, Chairperson (Democrat)
Jack Lary, Secretary (Republican)
Benjamin M. Phillips, Sr., Member (Democrat)
Andrew L. Schwartz, Member (Republican)

**American Recovery and
Reinvestment Act 2009
(Federal Stimulus)**

The Board of Election Commissioners did not receive any federal stimulus monies during the year ended June 30, 2011.

Appendix A

Board of Election Commissioners
 Statement of Appropriations and Expenditures
 Year Ended June 30, 2011

	<u>Appropriation Authority</u>	<u>Expenditures</u>	<u>Lapsed Balance</u>
GENERAL FUND			
Personal service	\$ 2,165,997	1,968,952	197,045 *
Materials and supplies	422,321	393,802	28,519
Equipment, lease, and assets	296,165	280,626	15,539
Contractual and other services	307,203	284,597	22,606
Total General Fund	<u>\$ 3,191,686</u>	<u>2,927,977</u>	<u>263,709</u>

* The lapsed balance includes \$53,500 in employee furloughs ordered by the city.

Appendix B

Board of Election Commissioners
 Schedule of Receipts, Disbursements, and Cash Balances - Special Revenue Funds
 Year Ended June 30, 2011

ELECTION AND REGISTRATION FUND

Receipts	
Election reimbursements	\$ <u>660,378</u>
	<u>660,378</u>
Disbursements	
Personal service	311,102
Materials and supplies	256,512
Rental and non-capital leases	5,498
Contractual and other services	<u>87,266</u>
	<u>660,378</u>
Receipts over (under) Disbursements	0
Beginning Cash Balance	<u>0</u>
Ending Cash Balance (balance returns to City funds at end of FY)	\$ <u><u>0</u></u>

ELECTION SERVICES FUND

Receipts	
SOS/grant reimbursements	\$ <u>196,108</u>
	<u>196,108</u>
Disbursements	
Personal service	50,000
Materials and supplies	3,475
Rental and non-capital leases	3,543
Contractual and other services	<u>154,025</u>
	<u>211,043</u>
Receipts over (under) Disbursements	(14,935)
Beginning Cash Balance	<u>85,446</u>
Ending Cash Balance	\$ <u><u>70,511</u></u>