

# Local Government Elections Task Force

## Access to Disclosure Documents Discussion Paper

April 2010



# Access to Campaign Financial Disclosure Documents

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**ISSUE:** This issue paper has been prepared as a follow up item to the Local Government Elections Task Force's (Task Force) discussion of campaign disclosure and provides additional information about public access to campaign financial disclosure documents.

At present, the *Local Government Act* requires that local governments make campaign financial disclosure statements, signed declarations and supplementary disclosure statements available for public inspection at the local government offices during regular office hours from the time of filing until seven years after general voting day. Under the *Interpretation Act*, the right to inspect these documents includes the right to make copies or extracts of the records. The *Local Government Act* also allows local governments to, by bylaw, provide for the publication of these documents by other means, including on the Internet or by other electronic means. It is not known how many local governments have published disclosure documents electronically.

## May vs. Must

Under the current legislation, local governments *may* provide for the electronic publication of campaign financial disclosure statements. Alternatively, local governments *may* choose not to provide for electronic publication, relying instead on the availability of disclosure documents at the local government offices.

Throughout the *Local Government Act*, there are numerous instances of the empowerment of local governments to determine whether or not to impose requirements, which is consistent with principle of flexibility that underpins the local government system. For instance, some local governments may have the capacity to post campaign financial disclosure statements on their website, while others do not. The flexibility of the current legislation surrounding public access to campaign financial disclosure documents provides for such variation.

However, the existing legislation has permitted a patchwork result in the electronic publication of disclosure documents. Many larger, highly urbanized local governments have provided for electronic publication, while many smaller, more rural local governments have not. This poses a challenge for those seeking disclosure documents on the Internet, from the public to the media to academics. It also makes comparative research across jurisdictions difficult.

A possible approach to this variation would be to require local governments to publish disclosure documents on the Internet. Such a requirement would help standardize how disclosure documents are accessed across the province. It would also make disclosure documents from one local government available to those in other locations. Improved access to disclosure documents may help address some concerns about the transparency of campaign financing in local government elections.

## Possible Directions

### If publication is required, publish on local government website

Although the majority of local governments currently operate websites, the range of functions and comprehensiveness of information on local government websites varies across communities, from those maintaining multiple pages with databases and other applications, to those with a single page containing basic information about the community. The capacity of local governments to publish disclosure documents on their websites also varies; while some already undertake such publication, others may need to acquire additional technical and/or staff resources, at their own expense, to meet any new legislative requirements. A publication initiative involving individual local government websites would also be difficult to monitor from an enforcement perspective, and would be of little assistance to those attempting to conduct comparative research across multiple local governments.

### If publication is required, publish in a central repository

Alternatively, local governments could compile disclosure documents for all candidates, elector organizations and campaign organizers and forward these documents for publication in a central repository. Establishing a central repository may facilitate comparative research, as researchers would be able to obtain disclosure documents from numerous jurisdictions in a single location. It could also make disclosure documents from various jurisdictions equally accessible—that is, variation in file formats and where disclosure documents may be placed on local government websites could be eliminated in a central repository. The most significant challenge related to operating a central repository would be collecting disclosure documents and ensuring 100% compliance, and it would be important for any organization operating a repository to have strong working relationships with local governments to facilitate compliance. It is also very likely that the organization operating the repository would require additional resources to operate the database and to work with local government staff to ensure 100% compliance.

If the Task Force determines that a central repository is preferred, there are three organizations that would appear to have the capacity to host a repository:

1. CivicInfo BC<sup>1</sup>: CivicInfo BC collects candidate information and election results for an elections database. This database serves as a central location for the public, the media and others to find election information. For example, on election night in 2008, CivicInfo BC invited Chief Election Officers (CEOs) to upload election results so that the public and the media could search CivicInfo BC's website, rather than contacting each CEO. The majority of local governments submitted results on election night (Saturday), with 100% participation being achieved by mid-day on Monday—less than 48 hours after the polls closed.

Given that CivicInfo BC currently maintains a database of candidate information, it would be possible to attach disclosure documents to candidate profiles. Such a database would be searchable by jurisdiction,

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<sup>1</sup> CivicInfo BC is a co-operative information-sharing service for local governments in B.C. that partners with and is supported by many key local government organizations, including the Ministry of Community and Rural Development, the Local Government Management Association and the Union of British Columbia Municipalities.

by type of candidate (i.e., mayor, councillor, electoral area director, Islands Trust trustee), or by certain candidate characteristics (i.e., previous experience, gender, elected by acclamation). The result would be a database capable of producing reports including a summary of the available data for each candidate, election results for each candidate, and financial disclosure information for each candidate. CivicInfo BC staff have experience in managing data collection and publication initiatives similar to that contemplated for disclosure documents, and have strong working relationships with local government staff in this context. Local government staff people are also familiar with CivicInfo BC's site and reporting software. CivicInfo BC is recognized as a "neutral" party in the local government field, and the maintenance of a repository of disclosure documents fits with CivicInfo BC's key objective—to facilitate the free and open exchange of local government information.

2. Ministry of Community and Rural Development: The Local Government Department of the Ministry has the technical capacity and working relationships necessary to create a repository and to facilitate the collection of disclosure documents for local government elections, although it does not currently maintain any similar databases.
3. Elections BC: For provincial elections, Elections BC currently maintains an online database of financial disclosure documents submitted by candidates, registered political parties and other filing entities. This database contains PDFs of financial disclosure documents, which can be accessed by the name of the filer (i.e., candidate, party, etc.), electoral district, or certain other characteristics. Elections BC also has a searchable database of contributors. It would be possible for Elections BC to create and maintain a similar database for local government elections, although the creation of such a database could require additional resources. However, this role would require Elections BC staff to develop greater knowledge of the local government elections process and develop strong working relationships with local government staff to facilitate the collection of disclosure documents.

In addition, other considerations may need to be addressed in discussing the creation of a central repository for disclosure documents. For example, would a repository be used exclusively for local government elections, or would it be available to other entities that follow *Local Government Act* election provisions, such as school boards and local community commissions? Would a repository be used in other voting, such as voting in a referendum? Should the organization hosting a repository be responsible for reviewing disclosure documents for completeness and accuracy, and for ensuring information that is not included in public disclosure (i.e., addresses of individual contributors) is withheld?