

Legislative Council Election Financial Assistance Scheme
Notes for Candidate and Auditor of Candidate of Legislative Council Elections

Purpose

1. The purpose of these Notes, which have been prepared in consultation with the Hong Kong Society of Accountants (“HKSA”), is to provide guidance to:
 - (a) the candidate or list of candidates (“candidate”) of the Legislative Council (“LegCo”) elections seeking financial assistance from the Government under the Financial Assistance Scheme (the “Scheme”); and
 - (b) the auditor of the candidate,in order that:
 - (i) the candidate will establish proper internal controls in relation to the accounting requirements to ensure that his/her election return (with the accounts of the declared election expenses and the declared election donations) complies with section 37(1) and (2)(b) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (the “ECICO”); and
 - (ii) the auditor of the candidate will be able to plan and perform appropriate procedures for a high level assurance engagement as required by the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections)(Application and Payment Procedure) Regulation (Cap. 541N) (the “Regulation”).

Background

2. The Legislative Council (Amendment) Ordinance 2003 was enacted on 3 July 2003. The new Part VIA of the Legislative Council Ordinance (Cap. 542) (the “LCO”) provides for a financial assistance scheme for candidate in respect of election expenses. The aim of the Scheme is to encourage more public-spirited candidates to participate in LegCo elections. This will be conducive to the development of political parties and political groups in Hong Kong.
3. Under the Scheme, candidate who gets elected or who has received 5% of valid votes or more will be given financial assistance to offset part of his/her election expenses as follows:
 - (a) in respect of a candidate in a contested geographical or functional constituency, the amount payable is the lowest of:
 - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (now \$10 per vote); or
 - (ii) 50% of the declared election expenses of the candidate; or
 - (iii) if the declared election expenses of the candidate exceed the corresponding declared election donations, the difference in amount between those expenses and donations.
 - (b) in respect of uncontested geographical or functional constituencies, the amount payable is the lowest of:

- (i) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (now \$10 per registered elector); or
 - (ii) 50% of the declared election expenses of the candidate; or
 - (iii) if the declared election expenses of the candidate exceed the corresponding declared election donations, the difference in amount between those expenses and donations.
4. If the declared election donations of a candidate equal or exceed the declared election expenses of the candidate, financial assistance is not payable.

Notes for Candidate

- 5. The candidate should note that the Regulation stipulates that a claim for financial assistance from a LegCo election candidate should be made on a form specified by the Electoral Affairs Commission (“EAC”) and must be accompanied by an election return with the accounts of the declared election expenses and the declared election donations and an auditor’s report.
 - 6. The Regulation requires the auditor’s report to:
 - (a) confirm that the auditor has audited the accounts of the declared election expenses and the declared election donations in accordance with Standard on Assurance Engagements 200 “High level assurance engagements”¹ issued by the HKSA; and
 - (b) state the auditor’s opinion as to whether the election return complies with section 37(1) and (2)(b) of the ECICO in all material respects.
 - 7. Given the above it is important that the candidate establishes proper internal controls in relation to the accounting requirements to satisfy section 37(1) and (2)(b) of the ECICO.
 - 8. Section 37(1) of the ECICO states that each candidate at an election must lodge with the appropriate authority (i.e., the Chief Electoral Officer (“CEO”)) an election return setting out:
 - (a) the candidate’s election expenses at the election; and
 - (b) all election donations received by or on behalf of the candidate in connection with the election.
- Section 37(2)(b) of the ECICO states that the candidate must ensure that the return is accompanied:
- (i) in the case of each election expense of \$100 or more, by an invoice and a receipt giving particulars of the expenditure; and
 - (ii) in the case of each election donation of more than \$1,000 or, in the case of an election donation consisting of goods or a service, of more than \$1,000 in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation; and

¹ “Standard on Assurance Engagements 200, High level assurance engagements” means the standard of auditing practices of that name issued by the Council of the HKSA as amended from time to time.

- (iii) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was disposed of in accordance with section 19 of the ECICO, by a copy of the receipt given by the recipient of the donation or part;
- (iv) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was not disposed of in accordance with section 19(3)² of ECICO, by an explanation setting out the reason why it was not disposed of in accordance with that section; and
- (v) by a declaration in a form provided or specified by the appropriate authority verifying the contents of the return.

The return and declaration of election expenses and donations in a specified form (which will be given to a candidate upon his/her submission of nomination) must be submitted to the CEO not later than 60 days after the gazettal of the result of the election.

9. The candidate needs to make arrangements to institute proper internal controls to ensure that all election donations to which he/she receives and all election expenses for which he/she incurs, are properly accounted for and recorded in the books and records of the candidate.
10. The proper internal controls in relation to the accounting requirements should include the following:
 - (i) a candidate should appoint a treasurer before accepting an election donation or incurring an election expense. This is to ensure that all donations received and expenses incurred for the campaign of a candidate are properly recorded in the books and records;
 - (ii) all donations relating to the election campaign should be recorded in the books and records as soon as practicable and cash and cheque donations are deposited in a separate bank account of a candidate - for the sole purpose of the candidate's election campaign, as soon as practicable and preferably within 3 working days of receipt;
 - (iii) the candidate and the treasurer should ensure that a cash book is maintained to record all election donations received and election expenses paid and regular bank reconciliations should be carried out;
 - (iv) all donation receipts and election expense payments should be supported by documentation and properly filed; and
 - (v) the candidate should appoint an auditor immediately after submitting his/her nomination if he/she intends to seek financial assistance under the Scheme, in order that the auditor will have sufficient time to plan and perform the appropriate procedures for a high level assurance engagement as required by the Regulation.
11. Any financial benefit given by an organization or individual to a candidate for the purpose of meeting, or contributing towards meeting his/her election expenses should be declared as election donation and accounted for in the election return. Any goods and services obtained free of charge or at a discount are donation in kind and their estimated value should also be

² Section 19(3) of the ECICO requires that any unspent or unused donations must be given to charitable institutions or trusts of a public character chosen by the candidates. Section 19(4) of the ECICO requires that any amount of donations that exceeds the upper limit of election expenses must also be given to such charitable institutions or trusts.

included in the election return both as a donation and election expense where appropriate. Fund raising campaigns organized by a political body or an organization without specific reference to the candidate will not be counted as the candidate's election activity. However, any contributions from such political body or organization to the candidate will need to be recorded as election donations received by the candidate. Costs incurred by the political body of the candidate in promoting his/her election are expenses which are counted towards election expenses. Costs of meeting where the platform of the political body is publicized without specific reference to the candidate will not be counted as election expenses.

12. Control procedures on the completeness of donation receipts

The following sets out some common control procedures on the completeness of donation receipts. Certain particular difficulties for the candidate in establishing control procedures can stem from the use of volunteers often on a part-time basis. Nevertheless, it is important for the candidate raising donation receipts through street collections undertaken by volunteers to ensure that collectors are adequately supervised and controlled and the donations collected are complete and recorded. The procedures below are not intended to be comprehensive. There may be other control procedures of general application (such as segregation of duties) which are not included in the examples given below. The nature and extent of the procedures will clearly depend on the size of the campaign.

a. Recruitment and use of volunteers / collectors

- (i) Separate records of personal details (e.g. name and identity card number) should be kept for each collector.
- (ii) Collectors should be briefed on the policies and procedures for street collections.
- (iii) Collectors should be properly supervised.
- (iv) In addition, controls would need to be considered to ensure that the recruitment is properly approved by the candidate, and the recruited individual is a fit and proper person to conduct such collection.

b. Collecting boxes and tins

- (i) Name of the candidate should be printed prominently on collecting boxes and tins.
- (ii) A numerical control over boxes and tins should be implemented.
- (iii) There should be satisfactory sealing of boxes and tins so that any opening prior to recording cash is apparent.
- (iv) Collectors (each has his own box or tin) should work in teams of more than one person. Identity of collectors should be checked and recorded before assigning boxes and tins to them (e.g. by checking their identity cards).
- (v) Collectors should be required to sign to acknowledge both the initial receipt of the collecting box or tin and the return of the box or tin after the event.
- (vi) Collecting boxes and tins should be opened in the presence of at least two persons approved by the candidate to be fit and proper. The counting and recording of receipts should be carried out by the treasurer and checked by the candidate. The certificate of cash counts should be signed by the treasurer upon completion of counting and counter-signed by the candidate.

13. The candidate should ensure that the auditor is to have access, at all reasonable times, to all records, documents, books, accounts and vouchers and to such information and explanations that, in the auditor's opinion, are necessary to conduct the engagement in accordance with Standard on Assurance Engagements 200.

14. A candidate who knowingly makes a materially false or misleading statement in his/her return and declaration of election expenses and donations or any advance return of donations commits a corrupt conduct under section 20 of the ECICO and is punishable by a fine of up to \$500,000 and imprisonment of up to 7 years.
15. In relation to election expenses and donations, a candidate and his/her treasurer should make reference to the EAC Guidelines on Election-related Activities in respect of 2004 Legislative Council Elections, in particular Chapter 16 entitled “Election Expenses and Donations” and Appendix L “Items of Expenses which may be Counted towards Election Expenses”.

Notes for Auditor

Background information

16. A claim for financial assistance under the Scheme must be made by a candidate on a form specified by the EAC. The claim form must be accompanied by an election return with the accounts of the declared election expenses and the declared election donations audited by an auditor (section 60I of the LCO).
17. The auditor's responsibilities under the Regulation are set out in paragraph 6 above.

Engagement letter

18. It is important that there is a clear understanding and agreement with the candidate as to the nature of the services that the auditor is to provide. To avoid any misunderstanding, the agreement should be put in writing in the form of an engagement letter. It is suggested that the terms of the engagement be agreed prior to accepting the appointment as auditor for a candidate.

Planning and conducting the engagement

19. The auditor should be aware that this is the first time that he is required to report under the Scheme. Therefore, it is important that the auditor who has decided to take on such an engagement should familiarize himself with the relevant ordinances and regulations such as:
 - (a) Part VIA of the LCO (Cap. 542);
Part 6 of the ECICO (Cap. 554);
the Regulation (Cap. 541N); and
 - (b) EAC Guidelines on Election-related Activities in respect of 2004 Legislative Council Elections, in particular Chapter 16 entitled “Election Expenses and Donations” and Appendix L “Items of Expenses which may be Counted towards Election Expenses”.
20. The auditor should plan and conduct a high level assurance engagement in such a way that he can conclude on a reasonable basis whether the election return complies with section 37(1) and 2(b) of the ECICO. In case of doubt, the auditor should make reference to the relevant ordinances/regulations and the EAC Guidelines on Election-related Activities in respect of 2004 Legislative Council Elections and seek clarification from the Registration and Electoral Office where appropriate.
21. The auditor should obtain an understanding of the internal controls to plan the engagement. To obtain the information needed on internal controls, the auditor should consider visiting campaign sites to obtain an overall view of the controls and to obtain information on items

such as major suppliers, volunteer labour and normal campaign expenditures.

22. In conducting a high level assurance engagement, the auditor should perform such procedures³ as he considers necessary in the circumstances and obtain all the information and explanations which he considers necessary in order to make his conclusion.
23. The auditor should be aware of the audit risks associated with the accounting for election donations and election expenses by the candidate. Accordingly, he should pay particular attention to the special features of election donations and election expenses which may be received and incurred by the candidate.

Special features of election donations and election expenses

24. The special features of election donations may include:
 - Donations can be in cash or in kind, and include any money's worth, any valuable security or other equivalent of money and any valuable consideration.
 - Donations may be in the form of a lump sum contribution from a political body of a candidate.
 - All spent or used donations, whether in cash or in kind, which may be received before, during or after an election, are counted towards the total election expenses which are subject to the maximum amount prescribed.
 - Any unspent or unused donations must be given to charitable institutions or trust of a public character chosen by the candidate. Any amount of donations that exceeds the upper limit of election expenses must also be given to such charitable institutions or trusts.
 - On receiving a donation, of money or in kind, of more than \$1,000, a candidate must issue to the donor a receipt which specifies the name and address of the donor.
 - Donations exceeding \$1,000 or, in the case of an election donation consisting of goods, of more than \$1,000 in value received from anonymous donors must not be used for election expenses and must be given to a charitable institution or trust of a public character chosen by the candidate.
 - Donations in kind include goods and services obtained free of charge or at a discount. Unless the discount is generally available to all customers, the difference between the market/regular price and the price charged is a donation and must be declared and included as such and correspondingly as an election expense in the election return.

³ The auditor's procedures would normally include:-

- (a) performing tests of transactions;
- (b) obtaining an understanding of the accounting systems and control in order to assess their adequacy as a basis for the preparation of the accounts of the declared election expenses and the declared election donations and to establish whether proper books and records have been kept and maintained by the candidate;
- (c) assessing significant estimates and judgements made by the candidate in the preparation of the accounts of the declared election expenses and the declared election donations; and
- (d) evaluating the overall adequacy of the presentation of information in the accounts of the declared election expenses and the declared election donations.

- For services or goods obtained free of charge, a candidate must include in the election return their estimated value as if the expenses had been incurred.
 - Voluntary service is the only service rendered free of charge which may be excluded from being counted as election expenses.
25. The special features of election expenses may include:
- Election expenses mean expenses incurred or to be incurred before, during or after an election, by a candidate or his/her election expense agent on his/her behalf for the purpose of promoting his/her election, or prejudicing the election of another candidate or other candidates and include the value of election donations consisting of goods and services used for that purpose.
 - Each election expense of \$100 or more has to be supported by an invoice and a receipt giving particulars of the expenditure.
 - Common election expenses may include:
 - fees and allowances paid to agents and assistants
 - meal and drinks
 - election advertisements
 - renting of space for election campaign
 - stationery, photocopying and telephone
 - mailing and transport
 - costs incurred by the political body or organization of the candidate in promoting his/her election (costs of meeting where the platform of the political body or organization is publicized without specific reference to the candidate will not be counted as election expenses)
 - interest incurred from a loan to finance the campaigning activities of a candidate
26. The auditor should note that as with most organizations that receive funds by donation, due to the inherent limitation on being able to be satisfied as to the completeness of donations, it is not possible to determine the extent, if any, of unrecorded donations. Furthermore, since donated property and services are both donations and expenses, it is not possible to determine that all expenses have been recorded. The auditor should nevertheless be alert for specific circumstances arousing suspicion that the accounts of the declared election expenses and the declared election donations are not complete. Such circumstances would include situations where campaign expenditures were significantly in excess of donations or the reconciliation of the bank account was not properly done. In such situation, it is possible that some cash receipts (through donations, loans) have not been recorded. The auditor should question how the expenditures were made.
27. The auditor should also make enquiries with the candidate and the treasurer of the candidate to ensure that all the candidate's election expenses have been recorded with reference to the EAC Guideline on Election-related Activities in respect of 2004 Legislative Council Elections, in particular Chapter 16 entitled "Election Expenses and Donations" and Appendix L "Items of Expenses Counted towards Election Expenses".

Compliance with section 37(1) of the ECICO

28. In relation to compliance with section 37(1) of the ECICO, obtaining assurance as to the completeness and accuracy of donations and expenses can be difficult for the auditor, as it

would not be practicable for him to determine that the books and records of the candidate include all transactions relating to the election. Taking into account the above, the auditor should perform procedures to support his conclusion as to whether the election return complies with section 37(1) of the ECICO to the extent that the accounts of the declared election expenses and the declared election donations of election return set out, in all material respects, the election expenses and election donations that have been recorded in the books and records of the candidate made available to him.

Compliance with section 37(2)(b) of the ECICO

29. In relation to the compliance with section 37(2)(b) of the ECICO, the auditor should ensure that the candidate maintained sufficient records to comply with the documentation requirements, and disposed of the unused donations, in accordance with the requirements of that section.

Letter of representation

30. The auditor should obtain a representation letter from the candidate as to representations that the auditor considers of significance in forming his conclusion. For example, the auditor should obtain written assurance from the candidate that he/she is not aware of any violations of section 37(1) and (2)(b) of the ECICO.

Reporting

31. If the auditor is of the opinion that a proper set of books and records has not been kept by the candidate for the declared election expenses and the declared election donations, or the election return (with the accounts of the declared election expenses and the declared election donations) has not been properly prepared, or if the auditor fails to obtain all the information and explanations which are necessary for the purpose of his high level assurance engagement, he should make appropriate qualifications in his auditor's report.
32. If the auditor is of the opinion that there exists any other material non-compliance with the requirements of section 37(1) and (2)(b) of the ECICO, he should make full disclosure and where possible, quantify the effects of such non-compliance in the auditor's report.

Specimen auditor's report

33. A specimen auditor's report is attached at the Annex.

Registration and Electoral Office
June 2004

**SPECIMEN AUDITOR'S REPORT ON THE ELECTION RETURN
(WITH THE ACCOUNTS OF THE DECLARED ELECTION EXPENSES
AND THE DECLARED ELECTION DONATIONS) UNDER THE
FINANCIAL ASSISTANCE SCHEME FOR LEGISLATIVE COUNCIL ELECTIONS**

**AUDITOR'S REPORT TO (*Name of Candidate(s), Name of Constituency*)
(The "Candidate(s)")**

At your request, we have performed a high level assurance engagement on the accounts of the declared election expenses and the declared election donations as set out on pages ___ to ___ of the attached election return of the Candidate(s) in respect of the [2004] Legislative Council Election (the "Election") pursuant to the requirements set out in section 3(5) of the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections)(Application and Payment Procedure) Regulation (Cap. 541N).

Respective responsibilities of the Candidate(s) and auditors

The Candidate(s) is/are required to prepare an election return (including the accounts of the declared election expenses and the declared election donations) in compliance with section 37(1) and (2)(b) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (the "ECICO").

It is our responsibility to form an independent conclusion, based on the results of the procedures performed by us, as to whether the election return complies with section 37(1) and (2)(b) of the ECICO, in all material respects, and to report our conclusion to you.

Basis of conclusion

We conducted our work in accordance with Standard on Assurance Engagements 200 "High level assurance engagements" issued by the Hong Kong Institute of Certified Public Accountants and the Legislative Council Election Financial Assistance Scheme - Notes for Candidate and Auditor of Candidate of Legislative Council Elections issued in June 2004 by the Registration and Electoral Office of the HKSAR Government (the "REO Notes").

Such a high level assurance engagement includes performing the procedures set out in the REO Notes and examination, on a test basis, of evidence supporting the amounts and disclosure of the items stated in the accounts of the declared election expenses and the declared election donations of the election return. It also includes an assessment of the significant estimates and judgements made by the Candidate(s) in the preparation of the accounts of the declared election expenses and the declared election donations of the election return.

As it was not practicable for us, given the nature of the transactions relating to the Election, to determine that the books and records of the Candidate(s) include all such transactions, we planned and performed our work so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the accounts of the declared election expenses and the declared election donations of the election return set out, in all material respects, the election expenses of the Candidate(s) and the election donations received by or on behalf of the Candidate(s) in connection with the Election that have been recorded in the books and

records of the Candidate(s) made available to us, and the election return complies with section 37(2)(b) of the ECICO, in all material respects, in respect of the election expenses and donations so declared therein.

We believe that our work provides a reasonable basis for our conclusion.

Conclusion

Based on the foregoing, in our opinion:

- the election return complies with section 37(1) of the ECICO, in all material respects, to the extent that the accounts of the declared election expenses and the declared election donations of the election return have set out the election expenses of the Candidate(s) and the election donations received by or on behalf of the Candidate(s) in connection with the Election that have been recorded in the books and records of the Candidate(s) made available to us; and
- the election return complies with section 37(2)(b) of the ECICO, in all material respects, in respect of the election expenses and election donations so declared therein.

Use of this report

This report is intended for filing by the Candidate(s) with the Registration and Electoral Office of the HKSAR Government, and is not intended to be, and should not be, used by anyone for any other purpose.

ABC & Co.

Certified Public Accountants (Practising) [or Certified Public Accountants]

Hong Kong

Date