



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

Election Advisory #24-08

2024 Post-Election Audits

October 25, 2024

Section 109A of Chapter 54 of the General Laws requires random post-election audits to be conducted after presidential elections. Under this law, 3% of all precincts in Massachusetts must be hand-counted. This Advisory contains information about the post-election audit for the November 5, 2024 State Election. The Advisory serves as the training guide required by section 109A(d)(2) of Chapter 54.

Post-Election Audit Timeline

Thursday, November 7, 2024:

Selection and notification of precincts to be audited (One Ashburton Place, Boston, MA)

- Requirement: Random, non-computerized drawing of 3% of precincts within 48 hours of election. Notice must sent to election officials where one or more precincts have been drawn within 48 hours of the election.
- Citations: G.L. c. 54, § 109A(c); 950 CMR § 46.03(1); G.L. c. 54, § 109A(d)(1); 950 CMR § 46.04(1)

Monday, November 11, 2024:

Deadline to publish of date, time, and location of the audit

- Requirement: Municipality must "publicly announce" the date, time, and location at least 24 hours in advance of the audit.
- Citations: G.L. c. 54, § 109A(d)(1); 950 CMR § 46.04(1)

Tuesday, November 12, 2024:

Deadline to begin the audit

- Requirement: Municipality must begin the audit no later than 2 business days after the drawing
- Citations: G.L. c. 54, § 109A(d)(1); 950 CMR § 46.05(2)

Tuesday, November 19, 2024:

Deadline to submit audit report to Elections Division

- Requirement: Clerk must submit audit report no later than 14 days after Election Day.
- Citations: G.L. c. 54, § 109A(e); 950 CMR § 46.06(3)

Scheduling the Audit

Selection Process

As part of the audit, 3% of all precincts in Massachusetts must be hand-counted. Precincts must be chosen in a random, publicly verifiable, non-computerized drawing supervised by the Secretary within 48 hours of the close of polls.

The drawing will be held on **Thursday, November 7**. Notice of the time and place of the drawing will be posted on the Elections Division's website. The drawing is open to the public.

Timing

Audits must start no later than 2 business days after the drawing. The deadline to begin is **Tuesday, November 12**. If you do not complete the audit in one day, you must continue on each successive business day or other day, at the discretion of the Board of Registrars.

Location

The audit must be held in an accessible location in full public view. You should have a space identified well in advance, in case you are selected. The space should have ample room for tables, chairs, and the public, who can observe from behind a guard rail.

Notice

As soon as possible after the drawing, the Elections Division will notify you if one or more of your precincts have been selected. The selected precincts will also be posted on the Elections Division website.

If you are selected, you must "publicly announce" the time and place of the audit at least 24 hours before it begins. You must also notify the Elections Division of the time and place of the audit at least 24 hours before the audit begins.

Preparing for the Audit

Conducting the Audit

The audit must be conducted under the direction of the Board of Registrars or Election Commission. The registrars can designate the local election official to perform the audit. If the clerk is designated to perform the audit, the registrars or commission do not need to be present.

In this Advisory, "conducting authority" will be used for the Board of Registrars, Election Commission or, if designated, the local election official.

Staffing

Tally clerks may be used to count the ballots. You are not required to use poll workers, but they may be useful, since they are familiar with the process. While the party requirements for poll workers do not apply, it is recommended that the teams of two not be registered in the same party, if possible.

Set-Up

The set-up for the audit should be based on the size of the precinct being audited, the number of ballots to be counted, the number of teams and tables, and the space available. The number of counting tables should be determined by the number of teams counting ballots.

You will need a ballot blocking table at which ballots are counted into blocks of 50. Another table will be needed for block tally sheets to be returned and tallied onto a master tally sheet. Both of these tables should be separate from the tables where the counting of individual blocks occurs.

The area where the audit is occurring and the ballots are counted should be marked off by a “guard rail,” which may be a physical barrier or some other marking to denote the audit area from the public viewing area. Only election officials and workers conducting the audit can be within the guard rail.

Materials to Bring

You must deliver the necessary election materials to the audit location before you begin.

Materials should include:

- Block and total tally sheets
- Red pens or pencils
- Block tally envelopes
- Sealed envelopes and containers with cast ballots
- Original tally sheets
- Envelopes and containers with spoiled and unused ballots
- Voting lists used at the election
- Provisional ballot materials for any provisionals counted on Election Day
- Precinct clerk’s election record
- Election records from advance depositing and Central Tabulation Facility

Ballots to Audit

The audit is being conducted to ensure the Election Night tallies were accurate. **Only ballots included in the Election Night counts are audited.** The following ballots must be included in the audit:

- Ballots cast at the polling place on Election Day
- Any in-person early ballots
- Any mail-in ballots received before November 5
- Any mail-in ballots received on Election Day and counted on Election Day
- Any UOCAVA ballots (not FWABs) returned by 8 p.m. on Election Night
- Any ballots advance deposited
- Any ballots counted at a Central Tabulation Facility

The following ballots are **not** included in the audit:

- Provisional ballots not counted on Election Day
- Mail-in ballots received on Election Day, but counted during post-election tabulation
- Mail-in ballots postmarked by Election Day, but received and counted afterwards
- Federal Write-In Absentee Ballots
- Ballots rejected as defective

Audit Process

Preparing Ballot Materials

Begin the audit by unsealing the envelopes or containers with the ballots. Similar to a recount, the first step is to separate the ballots for the audited precinct into blocks of 50.

Give each team one block of ballots at a time, a corresponding block tally sheet, and an envelope. Mark the block tally sheet and the block envelope with the block number.

Offices to Audit

When preparing your tally sheets, determine which offices are being audited. Only certain offices and questions can be audited, and only those that are contested should be audited.

The offices to be audited are:

- ✓ Electors of President and Vice President
- ✓ Senator in Congress
- ✓ Representative in Congress
- ✓ Senator in General Court
- ✓ Representative in General Court
- ✓ One randomly selected statewide ballot question

Do not audit an office if only one candidate is printed on the ballot. Electors of President and Vice President and Senator in Congress will be hand-counted in every audited precinct. For the three other offices, look at whether more than one candidate was printed on the ballot to determine whether to audit that office.

- For example, Representative in Congress will only be audited in the 1st, 2nd, 8th, and 9th Congressional Districts.

You cannot choose to audit additional questions or offices. Only offices and questions listed above are to be counted.

Counting Ballots

Blocks of ballots should be counted by a team of two workers, facing each other across the table, with one reading the votes on each ballot and the other marking the tally sheet in red.

- Only the worker marking the tally sheet should have any writing implement, which must be a red pencil or red pen. No marks can be made on the ballots.

The teller should begin with the office at the top of the ballot (Electors of President and Vice President) and read aloud the names of the candidates selected by the voter. They should read each office aloud in the order listed and proceed to the selected ballot question. Each team must read and record votes for all audited offices and the designated ballot question on one ballot before proceeding to the next ballot.

Recording Votes

Block tally sheets are designed as a grid, with 50 columns labeled by number. There are two standard methods for marking a tally sheet:

- Mark each vote for a candidate (or blank or overvote) in consecutive order, so that the final column marked corresponds to the number of votes the candidate received.
 - For instance, if a candidate received 23 votes in the block, a mark in that candidate's row is made in columns 1-23.
- Mark each vote for a candidate (or blank or overvote) in the column corresponding to the ballot's position in the block, so that the final column marked is always column 50.
 - For instance, all of the votes on the 15th ballot in the block are marked vertically, in column 15.

The first method is recommended, because it allows you to quickly determine how many votes each candidate received by simply looking which number column in which the last vote is marked.

Standard for Counting Votes

Regardless of the method used to record votes, if a voter does not cast a vote for a candidate or question, it is tallied as a blank for that office or question.

If the voter has marked more than one vote indicator for any office or question, the vote for that office or question is tallied as an **overvote**.

- You need to report overvotes separately from blanks on the audit report form, even though overvotes are tallied as blanks in official results.

Each vote for an office must be recorded either in a candidate space, a space for blanks, or an overvote space on the tally sheet. Each vote for a ballot question must be recorded either in a yes space, a no space, a blank space, or an overvote space on the tally sheet.

Voter intent is the standard for counting votes. If the marks on the ballot indicate the voter's intent, the vote should be counted according to that intent, as long as the voter has essentially complied with election laws. If the ballot is marked in a way that leaves the intent of the voter unclear, the vote should not be counted and must be tallied as a blank.

A write-in vote should be counted even if the name is misspelled, the first name is omitted or incorrect, or initials omitted or incorrect, as long as the voter's intent can be determined.

The workers must record the number of votes for each office or question where voter intent is discernible, but the ballot was not marked according to instructions. The workers can include explanatory notes about the way the markings for candidates and questions on the ballot were made.

- For instance, the voter circled each candidate's name instead of filling in the oval next to the candidate's name.

If the tally clerk is unable to determine the intent of the voter, the conducting authority must decide the intent.

Total Tallying

After each block is counted and tallied, the workers must count the tally marks for each candidate, blanks, and overvotes for each office, and each yes vote, no vote, blank and overvote for the ballot question, and record the totals. They must also tally the number of votes for each contest where voter intent is discernible but not marked according to instructions.

The completed block tally sheet and envelope with the counted ballots must be returned to the counting authority and the totals from the block tally sheet must then be added to the master tally sheet.

After all ballots for the audited precinct are counted and the master tally sheet is completed, the votes for each candidate and office and the selected ballot question must be entered on the official audit report forms provided by the Secretary.

Post-Audit Procedure

Storing Ballots

When the audit is complete, the conducting authority must enclose all ballots in their proper envelopes or containers, secure each envelope or container with a seal, and certify on each that it has been opened and sealed again in conformity with the law.

Audit Report Form

After completing the audit, the conducting authority must record each race audited in each precinct on a separate audit report form provided by the Secretary.

- Audit Reports must be submitted to the Elections Division by **Tuesday, November 19**.

The audit form requires the following information:

- Total number of ballots counted during the audit
- Number of votes for each candidate (including write-ins and "all others"), blank votes, and overvotes recorded in the audit
- Number of yes and no votes, blank votes, and overvotes for the selected ballot question recorded in the audit

- Total number of ballots counted on Election Night
- Election Night tallies reported for each candidate (including write-ins and “all others”) and blank votes for ballots included in the audit
 - If you have optical scan equipment that reports overvotes separately from blank votes, you must include the number of overvotes recorded by the tabulator
- Election night tallies reported for yes and no votes and blank votes for the selected ballot question
 - If you use tabulators that record overvotes, you must include the number of overvotes recorded by the tabulator
- The difference between the audit results and Election Night tallies for each candidate (including write-ins and “all others”), yes and no question, and blank votes (excepting overvotes)
- Number of votes for each contest where voter intent is discernible, but not according to instructions, and any explanatory notes
- Any additional notes on your perceived cause of any discrepancies

Post-Audit Amendment

If there is a discrepancy between the audit results and the originally reported tallies, the audit results will be the official vote of record. The Board of Registrars or Election Commission must amend each precinct tally accordingly.

- For instance, if a candidate “gained” two votes as a result of the audit, the final certified tally for that candidate must be increased by two.

Possible Additional Audits

If there is a discrepancy between the audit results and the original tallies that reasonably casts doubt on the outcome of the election, or indicates a systemic failure to accurately count ballots, the Secretary may order audits of additional precincts, offices, or ballot questions, as necessary to ensure the outcome of the election is accurate and the cause of any systemic failure is identified.

Any additional precinct audits ordered by the Secretary must be performed and completed according to a schedule and notice set by the Secretary and conducted in the same manner as the original audit.

Published Audit Reports

After the audit is complete, the Elections Division will publish the results online within 10 days of receiving all completed audit forms.

Recounts

If you receive valid recount petitions for a race and precinct included in the audit, and you have not already begun the audit, you will not include that race in the audit. A separate recount will be held for that race, with agents from campaigns present.

If you receive recount petitions for a race and precinct to be audited after the audit has already begun, you must stop the audit of that race immediately. Continue auditing all other races and precincts not involved in the audit.