



OAKVILLE

REPORT

Council

Meeting Date: April 25, 2022

FROM: Clerk's Department

DATE: April 12, 2022

SUBJECT: Compliance Audit Committee

LOCATION: Town-wide

WARD: Town-wide

Page 1

RECOMMENDATION:

1. That the report entitled 2022 – 2026 Joint Compliance Audit Committee dated April 12, 2022, from the Clerk's department, be received.
2. That the Terms of Reference, attached as Appendix A to the report dated April 12, 2022, from the Clerk's department be approved.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The *Municipal Elections Act, 1996* (the "MEA") requires that all municipalities appoint a Compliance Audit Committee.
- A qualified elector who believes on reasonable grounds that a registered third party or candidate has contravened a provision of the *MEA* relating to election campaign finances, may apply for a compliance audit.
- The Clerk is required to prepare a report and forward to the Compliance Audit Committee identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits of the *MEA*.
- For the 2018 municipal election the Town of Oakville, City of Burlington, Town of Halton Hills, and the Region of Halton recruited and appointed members to a Joint Compliance Audit Committee. The same process is recommended for the 2022 municipal election with an updated Terms of Reference.
- Staff recommend that the Participating Municipalities (Region of Halton, City of Burlington, and Towns of Halton Hills, Milton, Oakville) recruit and appoint members to a joint Compliance Audit Committee.
- Any costs associated with the Joint Compliance Audit Committee, or an auditor, shall be the responsibility of the municipality requiring the services.

- Halton Regional Council will be considering the updated Terms of Reference at the Council meeting of April 20, 2022.

BACKGROUND:

Section 88.37(1) of the *MEA* makes the establishment of compliance audit committees mandatory for municipalities and local boards. The *MEA* states that an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate or registered third party has contravened a provision of the *MEA* relating to election campaign finances, may apply for a compliance audit of the registered third party or candidate's election campaign finances. Applications for a compliance audit can be submitted by eligible electors to the Clerk, who in turn shall forward the application to the Compliance Audit Committee. The Compliance Audit Committee reviews each application to determine whether or not there are reasonable grounds to request an audit. If the request is granted, the committee appoints an auditor to audit the registered third party or candidate's finances. Upon completion of the audit, the Committee reviews the auditor's report to determine whether there are contraventions of the *MEA* and whether legal proceedings against the registered third party or candidate should proceed. If the auditor's report indicates that there was no apparent contravention and the Compliance Audit Committee finds that there are no reasonable grounds for the application, Council is entitled to recover the auditor's costs from the applicant.

For the 2018-2022 term of Council, Council approved the terms of reference establishing a joint Compliance Audit Committee for the Town of Oakville, City of Burlington, Town of Halton Hills, and the Region of Halton. The Oakville Clerk received no applications for compliance audits for candidates or registered third parties during this term. In accordance with the *MEA*, the Compliance Audit Committee received a Clerk's Report identifying one (1) contributor to a candidate who appeared to have contravened established contribution limits. The committee considered the report and decided to commence a legal proceeding against the contributor for the apparent contravention. In accordance with the Terms of Reference, the mandate of the Compliance Audit Committee is considered complete at the end of each four-year term of Council at which time a successor committee shall be appointed.

COMMENT/OPTIONS:

As each municipality and local board is required to appoint a Compliance Audit Committee and with the shared committee service throughout the Halton Region having worked well for the 2018-2022 council term, staff recommend that the Town of Oakville, the City of Burlington, Town of Halton Hills, the Town of Milton, and Halton Region ('Participating Municipalities') recruit and appoint a Joint Compliance Audit Committee for the November 15, 2022 to November 14, 2026 term of Council.

Taking into consideration the competition for qualified applicants and the potential for conflicts for those applicants with accounting/auditing backgrounds, a Joint Compliance Audit Committee offers the greatest potential to reach the broadest spectrum of interested applicants across Halton Region in a cost-effective manner.

Terms of Reference

The current Terms of Reference for the Joint Compliance Audit Committee was approved by municipal Councils of Participating Municipalities in 2018. Minor edits have been made to the existing Terms of Reference to include allowing electronic participation in meetings, as required, and requiring that a Clerk or designate be present during any private deliberation sessions of the Committee. Upon approval of the updated Terms of Reference, attached as Appendix A to this report, the Region of Halton and all area municipalities, will commence recruitment of members for the Joint Compliance Audit Committee. Halton Regional Council will be considering this item at the Council meeting of April 20, 2022.

The *MEA* specifies that Compliance Audit Committees be composed of between 3 and 7 members. Staff is recommending that the Joint Compliance Audit Committee be composed of between 3 and 7 members; ideally to include auditors, accountants, lawyers, academics and other individuals with knowledge of the *MEA*'s campaign financing rules. As the Committee will operate on a quasi-judicial basis, prior experience on a committee or task force would be an asset.

To avoid possible conflicts of interest, care must be taken that any auditors or accountants appointed to the Joint Compliance Audit Committee do not audit or prepare the financial statement of any candidate running for office in any of Halton's municipalities. To avoid possible conflicts of interest, prior to being appointed to the Committee, any auditor or accountant must agree in writing not to undertake the audits or preparation of financial statements of any candidates seeking election to Councils in the Participating Municipalities during the term of the Committee. Failure to adhere to this requirement will result in the individual being removed from the Committee.

The Regional Clerk will coordinate a targeted recruitment of Joint Compliance Audit Committee members. This committee opportunity will be advertised in Halton's local newspapers and organizations such as the Institute of Chartered Accountants of Ontario, the Law Society of Upper Canada. Area universities and colleges will also be contacted. Information and an application form will be available on the websites of each municipality. The Selection Committee, composed of the Clerks of the Participating Municipalities, or delegates, will meet to review the applications and appoint Committee members. The Terms of Reference sets out the criteria that will be considered when appointing Joint Compliance Audit Committee members.

When a Participating Municipality receives an application for a compliance audit, the

Clerk of that municipality will call a meeting of the Joint Compliance Audit Committee, prepare the necessary notices, agendas, minutes, etc. Any costs associated with the holding of meetings or the decisions of the Committee will be the responsibility of the municipality requesting the services of the Joint Compliance Audit Committee. The Terms of Reference suggests that each member receive a retainer of \$400 shared by each Participating Municipality, a \$250 per meeting fee by the municipality requiring the meeting, and mileage at the current rate of the municipality requesting the services of the Joint Compliance Audit Committee. Joint Compliance Audit Committee members will be covered by the applicable municipality's errors and omissions and general liability policies to protect and defend against claims from third parties while performing duties outlined in the Terms of Reference for their position as a Committee member.

Each participating Municipality will be responsible for the meeting(s) of the Compliance Audit Committee, and any associated costs, in receiving a Clerk's Report identifying any contributor to a candidate or registered third party who appears to have contravened established contribution limits, in accordance with section 88.34 of the *MEA*.

Committee members will participate in the selection of an Auditor in response to a request for proposal prepared by staff. The Auditor will be appointed by resolution of the Committee. The engagement letter will indicate that the Auditor has been engaged by the Committee and will be prepared and executed by the Clerk, or other officer of the municipality as may be designated, on behalf of the municipality.

CONSIDERATIONS:

(A) PUBLIC

Any elector wishing to apply for a compliance audit will be required to submit such a request to the Town Clerk for consideration by a Compliance Audit Committee. The approved Terms of Reference along with administrative practices and procedures will be posted publicly on the Town's website.

(B) FINANCIAL

Administration costs for such items as printing, mail and mileage will be funded from the Clerk's Operating Budget. Advertising costs will be incurred to solicit applications for appointment to the Joint Compliance Audit Committee. Each affected municipality is required to pay any applicable costs in relation to the Committee's operation, activities and any auditor costs, should an audit be required. Should the Clerk submit a report to the Compliance Audit Committee, any associated audit costs will be paid from the election reserve.

Council is entitled to recover the auditor's costs from the applicant if an auditor's report indicates that there was no apparent contravention of the *MEA* and the Committee finds that there were no reasonable grounds for the application. Recovery of costs will be considered on a case-by-case basis.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Legal and Finance department will be consulted and involved as necessary.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

Provide outstanding service to our residents and businesses. Be accountable in everything we do and be fiscally sustainable.

(E) CLIMATE CHANGE/ACTION

No impact.

APPENDICES:

Appendix A – 2022 – 2026 Joint Compliance Audit Committee Terms of Reference

Prepared and recommended by:

Andrea Coyne, Manager, Elections, Policy and Print Services

Submitted by:

Vicki Tytaneck, Town Clerk