

REPORT

ADMINISTRATIVE SERVICES COMMITTEE

MEETING DATE: JUNE 18, 2018

FROM: Clerk's Department

DATE: May 24, 2018

SUBJECT: Compliance Audit Committee

LOCATION:

WARD: Town wide

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RECOMMENDATION:

That the Terms of Reference, attached as Appendix A to the report dated May 24, 2018 from the Clerk's department establishing a Joint Compliance Audit Committee, 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 candidate has contravened a provision of the MEA relating to election campaign finances, may apply to the Compliance Audit Committee for a compliance audit of the candidate's finances.
- For the 2014 Municipal Election the Town of Oakville, City of Burlington, Town of Halton Hills, Town of Milton, and the Region of Halton recruited and appointed members to a Joint Compliance Audit Committee. The same process is recommended for the 2018 Municipal Election with an updated Terms of Reference.
- Staff recommends that the participating municipalities 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 of the Committee or auditor.

BACKGROUND:

Section 88.37(1) of the MEA makes the establishment of compliance audit committees mandatory for municipalities and local boards. For the 2014-2018 term

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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, Town of Milton, and the Region of Halton. The Oakville Clerk received no applications for compliance audits during this term. 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.

The *MEA* states that an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of the *MEA* relating to election campaign finances may apply for a compliance audit of the 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 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 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.

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 2014-2018 council term, staff recommends that the Town of Oakville, the City of Burlington, Town of Halton Hills, the Town of Milton, and Halton Region (Participating Municipalities) again recruit and appoint a Joint Compliance Audit Committee for the December 1, 2018 to November 14, 2022 term of Council.

Once again taking into consideration the competition for qualified applicants as well as 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.

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Terms of Reference

The current Terms of Reference for the Joint Compliance Audit Committee were approved by municipal Councils in 2014. Recent amendments made to the MEA, including making registered third parties subject to potential compliance audits and requiring that the Clerk prepare and submit a report to the Compliance Audit Committee should any candidates or registered third parties have potential contraventions of campaign limits, require an update to the Terms of Reference for the 2018-2022 Term of Council. 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.

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 5 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, 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.

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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.

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 and the 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

There is no impact on other departments.

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(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be fiscally sustainable

(E) COMMUNITY SUSTAINABILITY

Facilitating Municipal Elections impacts on all 4 pillars of sustainability - social (including accessibility), economic, environment or cultural aspects of the community.

APPENDICES:

Appendix A – Terms of Reference

Prepared by:
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Submitted by:
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Town Clerk