

REPORT

REPORT TO: Chair and Members of the Community and Corporate Affairs Committee

REPORT FROM: Suzanne Jones, Clerk & Director of Legislative Services

DATE: May 14, 2018

REPORT NO.: ADMIN-2018-0018

RE: Approval of the Terms of Reference –Joint Compliance Audit Committee

RECOMMENDATION:

THAT Report No. ADMIN-2018-0018, dated May 14, 2018 regarding approval of the Terms of Reference –Joint Compliance Audit Committee, be received;

AND FURTHER THAT the attached Terms of Reference for the Joint Compliance Audit Committee, be approved.

BACKGROUND:

The *Municipal Election Act, 1996 (MEA)* outlines the mandatory requirement for all Ontario municipalities to establish a Compliance Audit Committee. The *MEA* states that if an eligible elector believes on reasonable grounds that a candidate has contravened a provision of the *MEA* relating to election campaign finances, the eligible elector may then apply for a compliance audit of the candidate's election campaign finances.

Applications for a compliance audit are submitted 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.

In 2014, Council approved the Terms of Reference to establish a Joint Compliance Audit Committee with the Region of Halton, City of Burlington, and the Towns of Milton

and Oakville. This Committee has been available for any applications for a compliance audit that may have arisen since the 2014 election.

In accordance with the Terms of Reference, the mandate for the current Joint Regional Compliance Audit Committee will be considered complete at the end of the current Council term.

COMMENTS:

Staff recommend that the Region of Halton, City of Burlington, and the Towns Halton Hills, Milton and Oakville (the “participating municipalities”) again recruit and appoint a Joint Compliance Audit Committee for the upcoming Term of Council. A compliance audit committee is to be established by October 1, 2018.

A Joint Compliance Audit Committee offers the greatest potential to reach the broadest spectrum of interested and qualified applicants across Halton in a cost effective manner. There is a great demand for qualified applicants who have accounting/auditing and legal backgrounds. Requests for compliance audits are usually rare (Halton Hills did not have any requests during this term), so the potential workload on a shared committee should be manageable.

Joint Compliance Audit Committee – Terms of Reference

The proposed Terms of Reference for the Joint Compliance Audit Committee (as attached) have been updated to include recent changes 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 which outlines any contraventions of campaign limits by candidates or registered third parties.

The *MEA* specifies that compliance audit committees be composed of between three (3) and seven (7) members, ideally to include auditors, accountants, lawyers, academics and other individuals with knowledge of the *MEA*’s campaign financing rules.

To avoid potential conflicts of interest, any auditor or accountant appointed to the committee must agree in writing that they have not undertaken and shall not undertake the audits or preparation of financial statements of any candidates seeking election to Councils, or for any registered third parties in the participating municipalities. Additionally, any lawyer or other legal professional appointed to the committee must agree in writing that they have not provided and will not provide legal advice to any candidates seeking election to Councils, or to any registered third parties; or contributors to candidates and/or third parties within any of 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.

Recruitment, Selection of Members, Receipt of Applications

The recruitment of Joint Compliance Audit Committee members will be coordinated the by Clerk of the Region of Halton. Advertisement to recruit members will be placed in local newspapers and sent to organizations such as the Institute of Chartered Accountants of Ontario, the Law Society of Upper Canada, and area universities and colleges. Information and an application form will also be made available on each participating municipalities' website.

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.

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, and 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 committee. The retainer fees for committee members will be shared amongst the participating municipalities.

RELATIONSHIP TO STRATEGIC PLAN:

The establishment of the committee helps fulfill the goal of providing responsive, and effective municipal government.

FINANCIAL IMPACT:

As outlined in the Terms of Reference, each member of the committee will receive a \$400 retainer fee; and a per diem of \$250 for attendance at each meeting, plus mileage at the current rate of the municipality requesting the services of the committee. The retainer fee for each member will be shared by each municipality (as an example – 7 members (maximum number of members) x \$400 divided by 5 participating municipalities = \$560 contribution from each municipality to retain the 7 members).

The retainer contribution, and the cost associated with attending each meeting should Halton Hills receive a request for a compliance audit, will be paid for through the Town's Municipal Election corporate budget.

CONSULTATION:

The Town Clerk has consulted with clerks of the participating municipalities in order to prepare for the implementation of a Joint Compliance Audit Committee for the new Term of Council.

PUBLIC ENGAGEMENT:

As this report is administrative and legislative in nature, further public engagement was not required.

SUSTAINABILITY IMPLICATIONS:

This report is administrative in nature as per the requirements of the MEA and therefore does not align with any sustainability implications.

COMMUNICATIONS:

A copy of this report, once approved by Council, will be forwarded to the Clerk of the Region of Halton, City of Burlington, and the Towns of Milton and Burlington.

CONCLUSION:

Upon approval of the Joint Compliance Audit Committee's Terms of Reference by all participating municipalities, advertising for and recruitment of committee members will proceed. A compliance audit committee will be established by October 1, 2018 as per the requirements outlined in the *MEA*.

Reviewed and Approved by,

A handwritten signature in black ink, reading "Brent Marshall". The signature is written in a cursive, flowing style.

Brent Marshall, CAO