



The Regional Municipality of Halton

| | |
|------------------|--|
| Report To: | Regional Chair and Members of Regional Council |
| From: | Art Zuidema, Commissioner, Legislative and Planning Services |
| Date: | April 18, 2018 |
| Report No. - Re: | LPS44-18 - Update to the Terms of Reference for the Joint Compliance Audit Committee |

RECOMMENDATION

THAT the updated Terms of Reference for the Joint Compliance Audit Committee included as Attachment #1 to Report No. LPS44-18, be approved.

REPORT

Executive Summary

- 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 or a registered third party has contravened the election finances provisions of the MEA may apply to the Compliance Audit Committee for a compliance audit of the candidate’s finances.
- For the 2014 Municipal Election, the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville and Halton Region recruited and appointed members to a Joint Compliance Audit Committee, and staff are recommending that this approach continue for the 2018 Municipal Election.
- 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. The MEA states that a qualified elector who believes on reasonable grounds that a candidate or a registered third party has contravened a provision of the MEA relating to election campaign finances may apply for

a compliance audit of the candidate's or the registered third party's election campaign finances.

Applications for a compliance audit are submitted to the Clerk, who in turn forwards the application to the Compliance Audit Committee. The Committee reviews the applications to determine whether the request for an audit should be granted or rejected. If the request is granted, the Committee appoints an auditor to audit the candidate or the registered third party's election campaign finances. Upon completion of the audit, the Committee will review the auditor's report and it may, if the report concludes that the candidate or registered third party appears to have contravened a provision of the MEA relating to election campaign finances, commence a legal proceeding against the candidate or registered third party for the apparent contravention. Further, if the report concludes that a candidate or registered third party does not appear to have contravened a provision of the MEA relating to election campaign finances, the Committee may make a finding as to whether there were reasonable grounds for the application for a compliance audit.

If the 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, Council is entitled to recover the auditor's costs from the applicant.

In 2014, Regional Council approved terms of reference establishing a Joint Compliance Audit Committee with the City of Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville for the current term of Council. This Committee has been available for any applications for a compliance audit that may have arisen since the 2014 election. The Regional Clerk has not received any applications for a compliance audit 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.

Discussion

Staff recommends that the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville and Halton Region (the "participating municipalities") again recruit and appoint a Joint Compliance Audit Committee for the December 1, 2018 to November 30, 2022 term of Council. Taking into consideration the competition for qualified applicants as well as the potential for conflicts for those applicants with accounting/auditing and legal backgrounds, a Joint Compliance Audit Committee offers the greatest potential to reach the broadest spectrum of interested applicants across Halton in a cost effective manner. Requests for compliance audits are usually rare, so the potential workload on a shared Committee should be manageable.

Terms of Reference

The Terms of Reference for the Joint Compliance Audit Committee were approved by Regional Council and the Local Municipal Councils in 2014. Recent changes in 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 documenting potential contraventions of campaign limits by candidates or registered third parties, require an update to the Terms of Reference for the upcoming election. Upon approval of the revised Terms of Reference by Regional Council and the Local Municipal Councils, recruitment of members for the Joint Compliance Audit Committee will commence. According to the MEA the Committee must be established by October 1, 2018.

The MEA specifies that compliance audit committees 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. Prior experience on a committee or task force would be an asset.

To avoid possible 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 registered third parties in the participating municipalities during the term of the Committee. In addition, 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 registered third parties in the election 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.

A targeted recruitment of Joint Compliance Audit Committee members will be coordinated by the Regional Clerk. 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, and area universities and colleges will be contacted. Information and an application form will also be made available on the website of each participating 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.

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 include a retainer of \$400 per member 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 Joint Compliance Audit Committee. The cost of the retainer for the members will be shared by each municipality, while the per diem and mileage will be paid only by the municipality requesting the services of the Committee. These rates are consistent with the rates paid by the other Regional Municipalities for their respective Compliance Audit Committees.

Should Halton Region require the services of the Joint Compliance Audit Committee, Committee members will be covered by the Region' 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.

FINANCIAL/PROGRAM IMPLICATIONS

Costs associated with the Joint Compliance Audit Committee, including advertising and administration costs, will be funded from the Regional Clerk's Operating Budget. The Operating Budget will also cover the cost of the Region's share of the retainer fee, and any auditor's costs should the Committee order an audit of the election campaign finances of a candidate for Regional Chair.

Regional 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 by a candidate for Regional Chair, 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.

Respectfully submitted,



Bob Gray
Director, Legal Services and Corporate
Counsel



Art Zuidema
Commissioner, Legislative and Planning
Services

Approved by



Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

Bob Gray

Tel. # 7248

Attachments: Attachment #1 – Terms of Reference for the Joint Compliance Audit Committee