

To: Corporate Services Committee

From: Mary Medeiros, City Clerk,
Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-22-08

Date of Report: February 2, 2022

Date of Meeting: February 7, 2022

Subject: 2022 Municipal Election Joint Compliance Audit Committee

Ward: All Wards

File: 03-05

1.0 Purpose

The purpose of this report is to:

- advise Council of the establishment of a 2022 Municipal Election Joint Compliance Audit Committee (“the Committee”) in accordance with the requirements as set out in the *Municipal Elections Act, 1996*, S.O 1996 c.32, Sched. as amended (“the Act”);
- seek Council’s approval of the Committee’s Terms of Reference which have been prepared in collaboration with staff from the Town of Ajax, the Regional Municipality of Durham (“the Region”), the City of Oshawa, the City of Pickering and the Town of Whitby with the intent to be approved by their respective Councils;
- authorize the City Clerk to prepare a by-law for Council’s consideration to appoint members to the roster of candidates for the Committee as selected by the Region, Town of Ajax; the City of Oshawa, the City of Pickering and the Town of Whitby; and,
- establish the Committee as required under Section 88.37 of the Act.

Attachment 1 is the draft Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee.

Attachment 2 is the report to Regional Council adopted at its January 26, 2022 meeting.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

1. That the draft Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee as set out in Attachment 1 of Report CORP-22-08 dated February 2, 2022 be endorsed; and,
2. That the City Clerk be authorized to bring forward a by-law for Council approval that would provide for the remuneration and appointment of a roster of individuals to the 2022 Municipal Election Joint Compliance Audit Committee in accordance with the Terms of Reference; and,
3. That, at such time as the above by-law is enacted by Council, that the 2022 Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act.

3.0 Executive Summary

Section 88.37 of the Act requires the council of a municipality to establish a Compliance Audit Committee ("Committee") before October 1st in an election year to review applications made by electors who believe on reasonable grounds that a candidate in that election has contravened one or more provisions of the Act related to election campaign finances.

In addition to supporting the work of the Committee, the City Clerk is also required to process applications for compliance audits and to review campaign contributions to identify any apparent exceedances of limits and forward them to the Committee, and to carry out any other duties to implement the Committee's decisions as prescribed in the Act.

4.0 Input From Other Sources

- Legal Services
- 2022 Participating Bodies (Town of Ajax, the Region, City of Oshawa, City of Pickering, and Town of Whitby)
- Municipality of Clarington
- Municipal Elections Act, 1996, S.O 1996 c.32, Sched. as amended

5.0 Analysis

5.1 Legislative Requirements and Responsibilities

City Council is required to establish a Committee prior to October 1, 2022 as per Section 88.37 of the Act. The Committee shall be composed of not fewer than three and not more than seven members, and shall not include employees or officers of the municipality, members of the council or any persons who are candidates in the election for which the Committee is established. The term of office of the Committee and its members is the same as the council that takes office following the next regular election.

Municipal Election Compliance Audit Committees receive and make decisions on applications for compliance audits of campaign finances for municipal council and school board candidates and registered third-party advertisers in a municipal election or by-election. Committees perform functions relating to the compliance audit application process as outlined in the Act. These functions include:

- considering reports from municipal clerks identifying contributors who appear to have contravened election contribution limits, and deciding whether legal proceedings should commence;
- considering whether an application for a compliance audit filed by an elector should be granted or rejected;
- appointing an external auditor selected by the Committee, if the application is granted; and,
- receiving and considering the auditor's report and deciding whether legal proceedings should commence.

Section 88.33 of the Act, provides that an eligible elector, who believes on reasonable grounds that a candidate has contravened a provision of the Act relating to election campaign finances, may apply for a compliance audit of the candidate's election campaign finances. The application must be submitted to the City Clerk in writing, include the reasons for the application, and must be submitted within 90 days after the latest of the following four dates:

- The filing date for financial statements;
- The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date;
- The candidate's supplementary filing date, if any; or
- The date on which the candidate's extension, if any, expires.

The Committee must consider any applications received within 30 days.

Compliance audit requests related to Regional Chair candidates are submitted to the Office of the Regional Clerk. Compliance audit requests related to candidates in other municipal offices are submitted to the applicable municipal Clerk. Requests related to School Board candidates are submitted to the secretary of the appropriate School Board.

5.2 2018 Municipal Election Compliance Audit Committee

For the 2018 Municipal Election, the City of Oshawa along with the Region, Town of Whitby, City of Pickering and the Durham District School Board ("2018 Participating Bodies") partnered to form a joint Committee. At that time, the City Clerk was granted the authority by Oshawa City Council to:

- Establish and approve the 2018 Compliance Audit Committee's Terms of Reference and administrative practices and procedures;

- Establish membership criteria and qualifications required to ensure a competent Committee can be formed, consistent with the Act;
- Recruit and appoint a roster of individuals eligible to be Committee members;
- Call and constitute a Committee among the roster of appointed eligible members, in keeping with the Committee's Terms of Reference, and administrative practices and procedures.

A Joint Committee roster was successfully recruited and formed by the 2018 Participating Bodies in June of 2018. Members on the roster began their term on December 1, 2018 and will complete their term on November 14, 2022. No applications for a compliance audit have been filed by an elector related to the 2018 Municipal Election in the City of Oshawa. Additionally, no contributors were identified as having contravened 2018 Municipal Election contribution limits in the City.

5.3 2022 Municipal Election Compliance Audit Committee

In preparation for the 2022 Municipal Election, City Clerk Services staff engaged in consultations in 2021 with Durham Region municipalities to establish participation in a joint Committee for the 2022 term. For this term, the Participating Bodies interested in having a joint Committee are the Town of Ajax, the Region, the City of Oshawa, the City of Pickering, and the Town of Whitby ("2022 Participating Bodies"). The 2022 Participating Bodies, including the City, have individually obtained legal opinions to ensure the attached Terms of Reference (Attachment 1) and shared approach are consistent with the requirements and principles of the Act.

Particular attention was given to the approach taken in 2018 and whether the 2022 Participating Bodies should follow the same process. In the interest of developing a consistent approach, the 2022 Participating Bodies have agreed to request each Council approve the appointment of no more than seven (7) members to the roster by by-law. This decision by the 2022 Participating Bodies conforms with the opinion provided by the City's Legal Services.

The joint process will realize recruitment cost savings and provide the City with greater access to credible and qualified members. Additionally, the joint Committee will encourage consistent procedures and practices amongst the 2022 Participating Bodies. In order to ensure consistency across all 2022 Participating Bodies, it is important for the Terms of Reference to be adopted as presented and approved by Regional Council at its January 26, 2022 meeting (Attachment 2).

The recruitment of members to the Committee will be done collectively by the Participating Bodies with the central intake of applications being facilitated by the Region. A selection committee comprised of the City Clerk, or designate, from each 2022 Participating Body will identify qualified candidates to form a roster of seven (7) individuals eligible to serve on the Committee. The following seven criteria shall be assessed:

- Demonstrated knowledge and understanding of municipal elections, including campaign financing rules;

- Proven analytical and decision-making skills;
- Experience working on committees, task forces or similar settings;
- Demonstrated knowledge of quasi-judicial proceedings;
- Availability and willingness to attend meetings;
- Excellent oral and written communication skills; and,
- Preference will be given to individuals with experience in accounting, law, law enforcement, municipal elections and academics from related fields.

All applicants will be required to complete an application form outlining their qualifications and experience.

After the completion of the recruitment process, staff will bring a by-law to Council for the remuneration and appointment of a roster of individuals as per the draft Terms of Reference (Attachment 1). Upon Council's enactment of the by-law, the Committee will be established.

Upon the receipt of an application for a compliance audit or a report from the City Clerk, the City Clerk, without any input from members of the Participating Bodies, will select three (3) available eligible members from the roster to constitute the Committee. Members will be selected based on availability and with the goal of having varied knowledge and experience on the Committee.

Oshawa's Committee will review applications and reports for candidates running for any office or any registered third party advertiser in the City of Oshawa. As indicated in Section 5.1, compliance audit requests related to candidates for the Regional Chair and candidates in other municipalities are to be submitted to their respective Clerk, and School Board candidates are to be submitted to the secretary of the appropriate School Board.

6.0 Financial Implications

The Region will pay the costs for recruitment advertising, while the 2022 Participating Bodies will collectively share the cost of an annual retainer of \$400 to individuals on the roster for the Committee. The retainer is intended to compensate for required training and review of compliance audit decisions, relevant case law and literature. A per-diem rate of \$350, plus mileage, is also provided by the applicable municipality, per individual called to serve on the Committee. Costs for operating the Committee are paid from the City's election reserve.

7.0 Relationship to the Oshawa Strategic Plan

The approval of the Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee supports the Oshawa Strategic Plan goal of Accountable Leadership.



Mary Medeiros, City Clerk,
Corporate Services Department



Tracy Adams, Commissioner,
Corporate Services Department

**2022 Municipal Election
Joint Compliance Audit Committee
Terms of Reference**

Name:

The name of the Committee is the “2022 Municipal Election Joint Compliance Audit Committee” (“the Committee”).

Definitions:

Clerk means the Clerk or secretary of the Participating Body, or their designate.

Participating Bodies means the Town of Ajax, Regional Municipality of Durham, City of Oshawa, City of Pickering, and the Town of Whitby.

Mandate:

The Committee is established pursuant to the requirements of section 88.37 of the Municipal Elections Act, 1996, S.O., 1996, c. 32, as amended (“the Act”) for the Participating Bodies.

The powers and functions of the Committee are set out in section 88.33 to 88.37 of the Act.

Term of Committee:

The term of appointment for the Committee shall be concurrent with the term of office of the council or local board elected in 2022 and shall therefore serve for four (4) years commencing on November 15, 2022 and concluding on November 14, 2026 or until such time the applicable Committee has disposed of any remaining matters in accordance with the Act, whichever is later.

Composition:

When a compliance audit application from an elector or a report from the Clerk indicating a candidate or registered third party has contravened any of the contribution limits under section 88.9 of the Act is received, the Committee comprised of three (3) members shall meet and consider the application and/or report in accordance with the Act.

Members forming the Committee shall be selected by the Clerk from a roster of qualified individuals, who have been jointly recruited by the Clerks of the Participating Bodies.

The following persons are ineligible for appointment:

- Employees or officers of any of the Participating Bodies,
- A member of council or of a local board of any of the Participating Bodies,
- Any persons who are candidates in an election of any of the Participating Bodies for which the Committee is established; or
- Any persons who are registered third parties in an election of any of the Participating Bodies for which the Committee is established.

Should an appointed Committee Member accept employment with any of the Participating Bodies or register as a candidate or a third party with any of the Participating Bodies, they will have been deemed to have resigned.

All Committee Members shall agree in writing that they will not work or volunteer for, or contribute to, any candidate or registered third party in any capacity in an election of any of the Participating Bodies.

If a person on the roster to serve on the Committee is identified as having participated or contributed to a candidate's campaign or registered third party, that person shall not be eligible to be selected as a Member with respect to a Compliance Audit Committee application within the applicable Participating Body where the participation or contribution to a campaign or registered third party occurred.

Conduct of Members:

Members of the Committee shall comply and conduct themselves in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Members shall not use their position on the Committee for any personal or political gain.

Remuneration:

Remuneration will be as follows:

- \$400.00 retainer fee (costs will be shared equally by the Participating Bodies) for those individuals on the roster. The retainer fee shall cover attendance at a mandatory training session and review of periodic updates or information supplied by the Clerk of any of the Participating Bodies. Payment of the retainer fee does not denote membership on a committee and covers the four (4) year term; and
- \$350.00 per meeting attended, plus mileage in accordance with the rate normally paid to employees of the applicable Participating Body. The per meeting rate shall cover review of background or agenda materials as required in preparation for a meeting.

Membership Selection:

At a minimum, the recruitment of persons to be included on the roster of individuals shall be advertised in a local newspaper having general circulation and on the websites of the Participating Bodies. Other recruitment measures may be initiated by the Clerks of the Participating Bodies.

All applicants will be required to complete an application and may be subject to further screening and an interview. The selection process will be determined by the Clerks of the Participating Bodies.

Applicants must have the ability to understand and apply the election campaign finance provisions of the Act and must remain impartial in order to fulfill their responsibilities.

Preference will be given to candidates that have experience related to compliance audit activities or investigative or adjudicative processes.

The following criteria will be considered when appointing members:

- Demonstrated knowledge and understanding of municipal election campaign financing rules,
- Proven analytical and decision-making skills,
- Experience working on committees, boards, adjudicative bodies, task forces or similar settings,
- Experience in accounting and audit, law, law enforcement, academics, or municipal administration from related fields,
- Demonstrated knowledge of quasi-judicial proceedings,
- Availability and willingness to attend meetings; and,
- Excellent oral and written communication skills.

Meetings:

Meetings will occur as needed and shall be conducted in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Chair:

At the first meeting of a Compliance Audit Committee on a particular report or application, the members shall appoint one member to act as Chair for the duration of the Committee's deliberations on those matters on the agenda. The Chair shall retain the role for all matters on the agenda at a meeting.

Role of Clerk:

The Clerk will act as the main contact between the Committee, compliance audit applicant, candidate and registered third party. In accordance with section 88.37 (6) of the Act, the Clerk shall carry out any duties required under the Act to implement the Committee's decisions.

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2126



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-1
Date: January 18, 2022

Subject:

2022 Municipal Elections Compliance Audit Committee

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That the draft Terms of Reference included as Attachment #1 to this report be approved.
 - B) That the Regional Clerk be authorized to bring forward a by-law for the remuneration and appointment of a roster of individuals as per the draft Terms of Reference; and
 - C) That at such time as the above by-law is enacted by Council, that the 2022 Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act.
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Report:

1. Purpose

- 1.1 The purpose of this report is to approve the 2022 Municipal Elections Compliance Audit Committee Terms of Reference, provide authority to the Regional Clerk to recruit members for a joint Compliance Audit Committee roster in cooperation with other participating bodies (Town of Ajax, City of Oshawa, City of Pickering and the Town of Whitby) and then to prepare a by-law for Council's consideration to appoint the members to the roster and thereby establish the 2022 Municipal Elections Compliance Audit Committee in accordance with the Municipal Elections Act.

2. Background

- 2.1 For the 2018 municipal election, the Region of Durham (“Region”), City of Oshawa, Town of Whitby, City of Pickering and the Durham District School Board partnered to form a joint Compliance Audit Committee. At that time, the Regional Clerk was granted the authority by Council to:
- a. Establish and approve the 2018 Compliance Audit Committee’s terms of reference and administrative practices and procedures.
 - b. Establish membership criteria and qualifications required to ensure a competent Compliance Audit Committee can be formed, consistent with the Municipal Elections Act, 1996.
 - c. Recruit and appoint a roster of individuals eligible to be Compliance Audit Committee members; and
 - d. Call and constitute a Compliance Audit Committee among the roster of appointed eligible members, in keeping with the Committee’s terms of reference, and administrative practices and procedures.
- 2.2 For the 2022 municipal election there has been consideration given as to whether the same approach should be taken. This discussion amongst the area Clerks and Solicitors in the municipalities of Ajax, Clarington, Oshawa, Pickering, Whitby and the Region has largely centered on the interpretation of the Municipal Elections Act (“Act”) as it pertains to the appointment of members to compliance audit committees and whether the Regional Clerk can in fact be granted the authority by Council to appoint those members. Another item contemplated has been the number of members permitted to be on a joint compliance audit committee roster.
- 2.3 There are differing opinions on the interpretation of the Act as it pertains to these matters, and in the interest of a harmonized and uniform approach the participating bodies have determined that it is prudent to request that each Council approve the appointment of members to the roster by by-law and that the roster contain no more than seven (7) members.
- 2.4 The Regional Clerk, along with the Clerks from the municipalities of Ajax, Oshawa, Pickering and Whitby, have formed a partnership in order to recruit and appoint a roster of eligible members for their respective Compliance Audit Committees. Working together will streamline the administrative processes involved with the recruitment and training of members and also allow for a larger pool of eligible members. It may also provide greater opportunities for the members to participate in the compliance audit process and gain valuable experience in this regard.
- 2.5 It is our understanding that the Clerks in the northern municipalities of Brock, Scugog and Uxbridge will establish a joint Compliance Audit Committee, similar to what was done for the 2018 Municipal Election. The Municipality of Clarington will appoint their own committee.

3. Legislative Requirements

- 3.1 Section 88.37 of the Municipal Elections Act (“Act”) requires the Region of Durham to establish a Compliance Audit Committee prior to October 1 of a municipal election year.
- 3.2 The Act provides that a Compliance Audit Committee shall consist of between three and seven members and cannot include any employees or officers of the Region of Durham, any members of Regional Council, any candidate in the election for which the Compliance Audit Committee is established, or any persons who are registered third party advertisers in the election for which the committee is established. In accordance with the Act the term of office for the Compliance Audit Committee shall run concurrently with the term of Council.
- 3.3 A Committee of three would be constituted by the appropriate municipality when an application for a compliance audit or a report from the Clerk is received, by selecting available eligible members from the roster. Members will be selected based on availability and with the goal of having varied knowledge and experience on the Committee. The Region’s Compliance Audit Committee would only consider applications or reports related to candidates for the Office of Regional Chair. Should the Region have the need to constitute a second or subsequent Committee, different members from the roster may be called upon.
- 3.4 Under the Act, candidates are bound by specific election campaign finance rules and must file provincially prescribed financial statements with the Regional Clerk outlining their campaign finance activities. Section 88.33 (1) of the Act, provides that an eligible elector, who believes on reasonable grounds that a candidate has contravened a provision of the Act relating to election campaign finances, may apply for a compliance audit of the candidate’s election campaign finances, even if the candidate has not filed a financial statement under section 88.25. The application must be submitted to the Regional Clerk in writing, include the reasons for the application, and must be made within 90 days after the latest of the following four dates:
 - a. The filing date for financial statements.
 - b. The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date.
 - c. The candidate’s supplementary filing date, if any; or
 - d. The date on which the candidate’s extension, if any, expires.

The Committee must consider any applications received within 30 days.

- 3.5 The Act allows for compliance audits of registered third party advertisers. Section 88.35 (1) of the Act, provides that an eligible elector who believes on reasonable grounds that a registered third party has contravened a provision of the Act relating to campaign finances, may apply for a compliance audit of the campaign finances of the registered third party, even if the registered third party has not filed a financial statement under Section 88.29. Requests for compliance audits of a third party advertiser's campaign finances would be filed with the Clerk of the municipality in which the third party advertiser registered, not the Regional Clerk.
- 3.6 The Act requires the Regional Clerk to prepare reports dealing with apparent campaign contributions in excess of the permitted limits in accordance with sections 88.34 or 88.36 of the Act. Should the Clerk determine that a contributor has exceeded the limits; the Clerk must prepare a report and forward it to the Compliance Audit Committee.
- 3.7 The Compliance Audit Committee's role includes the following five duties:
- a. Reviewing applications for compliance audits.
 - b. Granting or rejecting applications.
 - c. Appointing an external auditor selected by the Committee (if application granted).
 - d. Commencing legal proceedings if an audit identifies an apparent contravention; and
 - e. Reviewing reports filed by the Regional Clerk.
- 3.8 The Auditor's role includes the following three duties:
- a. Promptly conducting an audit.
 - b. Determining compliance with the Act; and
 - c. Preparing and filing a report.
- 3.9 The Regional Clerk's role includes the following four duties:
- a. Establishing administrative practices and procedures.
 - b. Supporting the work of the Committee.
 - c. Implementing the Committee's decisions; and
 - d. Reviewing and reporting on individual contributions to candidates.

4. Previous Reports and Decisions

- 4.1 [#2018-COW-22](#): 2018 Municipal Elections Compliance Audit Committee
- 4.2 [#2018-INFO-100](#): 2018 Municipal Elections Compliance Audit Committee - Update

5. Next Steps

- 5.1 A selection committee comprised of the Clerk, or designate, from each of the participating bodies will identify qualified candidates to form a roster of individuals eligible to serve on the Committee. The following six criteria shall be assessed:
- a. Demonstrated knowledge and understanding of municipal elections, including campaign financing rules.
 - b. Proven analytical and decision-making skills.
 - c. Experience working on committees, task forces or similar settings.
 - d. Demonstrated knowledge of quasi-judicial proceedings.
 - e. Availability and willingness to attend meetings; and
 - f. Excellent oral and written communication skills.
- 5.2 Preference will be given to individuals with experience in accounting, law, law enforcement, municipal elections and academics from related fields. All applicants will be required to complete an application form outlining their qualifications and experience.
- 5.3 The Regional Clerk will establish administrative practices and procedures for the Region's Compliance Audit Committee, in consultation with the Region's Corporate Services, Legal Services Division, making best efforts to maintain consistency with those established by the partner municipalities, and will carry out any other duties under the Municipal Elections Act.

6. Communication

- 6.1 Should Council adopt the recommendations contained within this report, the recruitment of members to the Compliance Audit Committee will be done collectively by the participating bodies with the central intake of applications being the Region. Each municipality will post the same ad in a newspaper with general circulation and on their respective websites.
- 6.2 In addition, the ad will also be placed in Workopolis, Society of Adjudicators and Regulators and Ontario Reports. These have been selected to target candidates with a financial and legal background. It is important that candidates understand how to apply the election campaign finance provisions of the Municipal Elections Act to fulfill their responsibilities and preference will be given to candidates that have experience in compliance audit activities, accounting, law, investigative or adjudicative processes.

7. Financial Implications

- 7.1 The Region will pay the costs for recruitment advertising utilizing the budgeted election funds to be approved in the 2022 Business Plans and Budgets. For the 2018 municipal election, costs for Compliance Audit Committee recruitment advertising were approximately \$11,000. Advertising costs for 2022 are expected to be comparable.
- 7.2 The Region and the participating bodies will share the costs for retainers for eligible Committee members, and for training. It is being proposed by the participating bodies that the retainer for members be \$400 and the per meeting cost be \$350. This is consistent with the 2018 municipal election. The Region is required to pay all costs related to the operation and activities should it constitute a Compliance Audit Committee, including any per meeting and mileage payments.
- 7.3 The Region is also required to pay the auditor's costs of performing a compliance audit, and the cost of any external legal counsel for the Committee it constitutes. It is not possible to determine with any certainty what the costs could be if a compliance audit is conducted, funds would need to be found at the discretion of the Commissioner of Finance.

8. Relationship to Strategic Plan

- 8.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
- 5.1 Optimize resources and partnerships to deliver exceptional quality services and value
 - 5.2 Collaborate for a seamless service experience

9. Conclusion

- 9.1 It is being recommended that Regional Council approve the 2022 Municipal Elections Compliance Audit Committee Terms of Reference, provide authority to the Clerk to recruit members for a joint Compliance Audit Committee roster in cooperation with other participating bodies (Ajax, Oshawa, Pickering and Whitby) and prepare a by-law for Council's consideration to appoint members to the roster and thereby establish the 2022 Municipal Election Compliance Audit Committee in accordance with the Municipal Elections Act.
- 9.2 This report has been reviewed by Corporate Services – Legal Services, and the Commissioner of Finance concurs with the recommendations in this report.
- 9.3 Information on the Compliance Audit Committee will be posted on the durham.ca/elections page.
- 9.4 For additional information, contact: Ralph Walton, Regional Clerk/Director of Legislative Services, at 905-668-7711, extension 2100.

10. Attachments

Attachment #1: Draft - 2022 Municipal Joint Compliance Audit Committee Terms of Reference

Prepared by: Leigh Fleury, Legislative Officer and Deputy Clerk Pro Tem, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

**2022 Municipal Election
Joint Compliance Audit Committee
Terms of Reference**

Name:

The name of the Committee is the “2022 Municipal Election Joint Compliance Audit Committee” (“the Committee”).

Definitions:

Clerk means the Clerk or secretary of the Participating Body, or their designate.

Participating Bodies means the Town of Ajax, Regional Municipality of Durham, City of Oshawa, City of Pickering, and the Town of Whitby.

Mandate:

The Committee is established pursuant to the requirements of section 88.37 of the Municipal Elections Act, 1996, S.O., 1996, c. 32, as amended (“the Act”) for the Participating Bodies.

The powers and functions of the Committee are set out in section 88.33 to 88.37 of the Act.

Term of Committee:

The term of appointment for the Committee shall be concurrent with the term of office of the council or local board elected in 2022 and shall therefore serve for four (4) years commencing on November 15, 2022 and concluding on November 14, 2026 or until such time the applicable Committee has disposed of any remaining matters in accordance with the Act, whichever is later.

Composition:

When a compliance audit application from an elector or a report from the Clerk indicating a candidate or registered third party has contravened any of the contribution limits under section 88.9 of the Act is received, the Committee comprised of three (3) members shall meet and consider the application and/or report in accordance with the Act.

Members forming the Committee shall be selected by the Clerk from a roster of qualified individuals, who have been jointly recruited by the Clerks of the Participating Bodies.

The following persons are ineligible for appointment:

- Employees or officers of any of the Participating Bodies,
- A member of council or of a local board of any of the Participating Bodies,
- Any persons who are candidates in an election of any of the Participating Bodies for which the Committee is established; or
- Any persons who are registered third parties in an election of any of the Participating Bodies for which the Committee is established.

Should an appointed Committee Member accept employment with any of the Participating Bodies or register as a candidate or a third party with any of the Participating Bodies, they will have been deemed to have resigned.

All Committee Members shall agree in writing that they will not work or volunteer for, or contribute to, any candidate or registered third party in any capacity in an election of any of the Participating Bodies.

If a person on the roster to serve on the Committee is identified as having participated or contributed to a candidate's campaign or registered third party, that person shall not be eligible to be selected as a Member with respect to a Compliance Audit Committee application within the applicable Participating Body where the participation or contribution to a campaign or registered third party occurred.

Conduct of Members:

Members of the Committee shall comply and conduct themselves in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Members shall not use their position on the Committee for any personal or political gain.

Remuneration:

Remuneration will be as follows:

- \$400.00 retainer fee (costs will be shared equally by the Participating Bodies) for those individuals on the roster. The retainer fee shall cover attendance at a mandatory training session and review of periodic updates or information supplied by the Clerk of any of the Participating Bodies. Payment of the retainer fee does not denote membership on a committee and covers the four (4) year term; and
- \$350.00 per meeting attended, plus mileage in accordance with the rate normally paid to employees of the applicable Participating Body. The per meeting rate shall cover review of background or agenda materials as required in preparation for a meeting.

Membership Selection:

At a minimum, the recruitment of persons to be included on the roster of individuals shall be advertised in a local newspaper having general circulation and on the websites of the Participating Bodies. Other recruitment measures may be initiated by the Clerks of the Participating Bodies.

All applicants will be required to complete an application and may be subject to further screening and an interview. The selection process will be determined by the Clerks of the Participating Bodies.

Applicants must have the ability to understand and apply the election campaign finance provisions of the Act and must remain impartial in order to fulfill their responsibilities.

Preference will be given to candidates that have experience related to compliance audit activities or investigative or adjudicative processes.

The following criteria will be considered when appointing members:

- Demonstrated knowledge and understanding of municipal election campaign financing rules,
- Proven analytical and decision-making skills,
- Experience working on committees, boards, adjudicative bodies, task forces or similar settings,
- Experience in accounting and audit, law, law enforcement, academics, or municipal administration from related fields,
- Demonstrated knowledge of quasi-judicial proceedings,
- Availability and willingness to attend meetings; and,
- Excellent oral and written communication skills.

Meetings:

Meetings will occur as needed and shall be conducted in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Chair:

At the first meeting of a Compliance Audit Committee on a particular report or application, the members shall appoint one member to act as Chair for the duration of the Committee's deliberations on those matters on the agenda. The Chair shall retain the role for all matters on the agenda at a meeting.

Role of Clerk:

The Clerk will act as the main contact between the Committee, compliance audit applicant, candidate and registered third party. In accordance with section 88.37 (6) of the Act, the Clerk shall carry out any duties required under the Act to implement the Committee's decisions.