

Report To:	Regional Chair and Members of Regional Council
From:	Bob Gray, Commissioner, Legislative and Planning Services and Corporate Counsel
Date:	April 20, 2022
Report No:	LPS33-22
Re:	2022 Municipal Election – Update of the Use of Regional Resources Policy and Joint Compliance Audit Committee Terms of Reference

RECOMMENDATION

1. THAT the updated “Use of Regional Resources Policy” appended to Report No. LPS33-22 as Attachment #1 be approved.
2. THAT the updated Terms of Reference for the Joint Compliance Audit Committee appended to Report No. LPS33-22 as Attachment #2 be approved.
3. THAT the Regional Clerk forward a copy of Report No. LPS33-22 to the City of Burlington, Town of Halton Hills, Town of Milton and Town of Oakville for their information.

REPORT

Executive Summary

- The *Municipal Elections Act, 1996* (the “MEA”) requires that municipalities establish a Use of Resources Policy prior to May 1st in an election year, and establish a Compliance Audit Committee prior to October 1st in an election year.
- Halton Region has a Use of Regional Resources Policy in place and staff are recommending minor updates to the policy for the 2022 Municipal Election through this report.
- In prior years Halton Region has established a Joint Compliance Audit Committee with the Local Municipalities and staff are recommending that this approach continue and that the Terms of Reference for the Committee be updated for the 2022 Municipal Election.

Background

Section 88.18 of the Municipal Elections Act requires municipalities and local boards to establish rules and procedures with respect to the use of their resources during an election campaign period. The intent of such rules and procedures is to provide guidelines for sitting elected officials and candidates, Regional employees, any registered third parties and members of the public regarding the use of Regional facilities and resources for political campaigning and any election related activities. The Region has an existing policy for the Use of Regional Resources, which includes a section which specifically outlines the use of such resources in an election year. This policy was developed and approved in 2003, then updated and approved again in 2018.

Section 88.37(1) of the MEA requires municipalities and local boards to establish compliance audit committees. 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 to this committee for a compliance audit of the candidate's or the registered third party's election campaign finances.

In 2018, Regional Council approved terms of reference establishing a Joint Compliance Audit Committee with participating Local Municipalities for the current term of Council. The Regional Clerk did not receive any applications for a compliance audit for the 2018 election. 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 purpose of this report is to recommend updates to the Use of Regional Resources Policy and the Joint Compliance Audit Committee Terms of Reference.

Discussion

Use of Regional Resources Policy

This policy applies at all times, however, also focuses on the use of resources during an election period, prohibiting the use of any Regional resources to promote, oppose, assist or hinder any election campaign by any individual or organization. For the 2022 Municipal Election, the election period is considered to run from the first day nominations can be filed (May 2, 2022) to Voting Day (October 24, 2022). Nomination Day, when some additional restrictions come into effect as itemized in the policy, is August 19, 2022.

It is recommended that the existing policy on the use of Regional resources be updated as outlined in Attachment #1 to this report. The contents have been reorganized in order to be adapted to the Region's current policy template. The recommended changes are primarily to streamline and clarify rules and remove some redundant and unclear wording. All additions are noted in bold in Attachment #1.

This update is being brought forward at this time to ensure that it is approved prior to the May 1st, 2022 MEA deadline. Upon approval, the policy will be circulated to Halton's Local Municipalities and will be included as part of the official package issued to candidates for the position of Regional Chair who have registered their nomination with the Regional Clerk. The policy will also be made available for public viewing on www.halton.ca.

Joint Compliance Audit Committee

The purpose of a Compliance Audit Committee is as follows, as set out in Sections 88.33 – 88.37 of the MEA:

- To review and grant or reject applications for compliance audits of the campaign finances of a candidate or registered third party, and appoint an auditor when an application has been granted; and
- To review the auditor's report of any such compliance audits and decide whether to commence legal proceedings against the candidate or registered third party for apparent contraventions of the MEA, if any are found.

Staff recommends that a Joint Compliance Audit Committee be established with the Local Municipalities for the November 15, 2022 to November 14, 2026 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.

Following approval of these Terms of Reference by Regional Council staff will work with the Local Municipalities to determine their interest in participating and bringing reports requesting approval of the Terms of Reference to their respective Local Councils.

Terms of Reference

The Terms of Reference for the Joint Compliance Audit Committee were approved by Regional Council and the respective Councils of the participating Local Municipalities in 2018. Minor administrative changes, including reflecting the possibility of holding electronic meetings and also mandating that a clerk or designate be present during all private Committee deliberations, are being recommended as updates from the 2018 version. Changes to the Terms of Reference are noted in bold in Attachment #2. Also, the enabling legislation and mandate sections have been combined from the previous version and the resulting sections re-numbered accordingly. Minor typographical changes are not noted.

Upon approval of the revised Terms of Reference by Regional Council and the Councils of the participating Local Municipalities recruitment of members for the Joint Compliance Audit Committee will commence. According to the MEA the Committee must be established by October 1, 2022.

The MEA specifies that compliance audit committees be composed of between 3 and 7 members. Employees of the municipalities, Members of its Councils and any candidates or registered third parties in the election for which the Committee is established are ineligible for membership.

Ideally, a compliance audit committee should include, and has included in the past, 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. Staff propose that a targeted recruitment of Joint Compliance Audit Committee members will be coordinated by the Regional Clerk. This committee opportunity will be advertised locally in Halton and through organizations such as the Institute of Chartered Accountants of Ontario and the Law Society of Ontario. Area universities and colleges will be contacted. Information and an application form will also be made available on the website of each participating Local 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 set 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'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.

FINANCIAL/PROGRAM IMPLICATIONS

There are no financial or program implications to the update to the Use of Regional Resources Policy.

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.

Respectfully submitted,



Jody Johnson
Director, Legal Services



Bob Gray
Commissioner, Legislative and Planning
Services and Corporate Counsel

Approved by



Jane MacCaskill
Chief Administrative Officer

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

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Attachments: Attachment #1 – Updated Draft Use of Regional Resources Policy
Attachment #2 – Updated Draft Terms of Reference for the Joint Compliance Audit Committee