

DATE: September 19, 2022

REPORT NO: C-04-2022

SUBJECT: **Joint Niagara Compliance Audit Committee – Updated Terms of Reference 2022-2026**

CONTACT: Jessica Dyson, Deputy Clerk
Joanne Scime, Director of Legislative Services/Clerk

OVERVIEW:

- The Municipal Elections Act, 1996 (The Act) requires municipalities and local boards to establish a Compliance Audit Committee before October 1st.
- A qualified elector who believes on reasonable grounds that a candidate or registered third party advertiser has contravened the campaign finance provisions of the Act may apply to the Compliance Audit Committee for a compliance audit.
- Since 2010, the Region, Local Area Municipalities and Niagara Public and Catholic School Boards (the “Joint Participants”), have continued with the joint Niagara Compliance Audit Committee under identical terms of reference. Staff are recommending continued participation in the joint Committee.
- Only minor changes have been made to the Terms of Reference Niagara Compliance Audit Committee 2022-2026 (Attachment A).

RECOMMENDATION:

1. That, Recommendation Report C-04-2022 regarding “Joint Niagara Compliance Audit Committee – Updated Terms of Reference 2022-2026” dated September 19th, 2022 be received; and,
2. That, the Township of West Lincoln continue its participation in the Joint Niagara Compliance Audit Committee and that the updated Terms of Reference (attached as Schedule A) be approved; and,
3. That, By-law 2010-57 be amended by removing Schedule A and replacing it with the attached new Schedule A which provides for new updated Terms of Reference as attached to this report.

ALIGNMENT TO STRATEGIC PLAN:

Theme #6

- **Efficient, Fiscally Responsible Operations**

The Township of West Lincoln is a lean organization that uses sustainable, innovative approaches and partnerships to streamline processes, deliver services and manage infrastructure assets.

BACKGROUND:

Section 88.37(1) of the *Municipal Elections Act* makes the establishment of compliance audit committees mandatory for municipalities and local boards. The *Municipal Elections Act* states that a qualified elector who believes on reasonable grounds that a candidate or a registered third party has contravened a provision of the *Municipal Elections Act* 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 Township 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 Region of Niagara, on behalf of the Area Clerks, shall appoint 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 *Municipal Elections Act* 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 *Municipal Elections Act* 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.

CURRENT SITUATION:

The *Municipal Elections Act* requires each municipality and school board in Ontario to establish a compliance audit committee to consider compliance audit applications. In 2018, the municipalities and school boards of Niagara partnered to establish the joint Niagara Compliance Audit Committee, and the Township has committed to join once again. The Committee oversees all Local Area Municipalities, Regional Municipality of Niagara and Niagara School Boards.

The updated Terms of Reference includes housekeeping improvements and gives authority for the Region to take the necessary steps, on behalf of the area clerks, in order to secure an auditor to undertake any audits as may be requested by the Committee. A copy of the updated terms of reference are attached to this report as Schedule A, which have been reviewed and passed by the Area Clerks Election Task Force.

Compliance Audit Committee – Update Highlights (changes highlighted)

- When an application has been filed under Section 88.33 of the Act, a minimum of three (3), **maximum of five (5)** of the seven (7) members of the Committee shall comprise the Committee for the purpose of reviewing and considering the application.
- The Clerk of the responding municipality shall determine the selection of the three (3) **to five (5)** sitting members of the Committee from the pool of members based on availability.
- The recruitment of committee members shall be advertised on the **websites of the participating municipalities and school boards.**
- A Nomination Committee consisting of a **minimum of three (3)** of the Clerks or designates from Niagara will review the applications and submit a joint short list of candidates from Niagara to the Councils/Boards, or Clerk(s), as the delegated authority for appointment approval.
- In the event a vacancy occurs during the term, the municipality may rely on the remaining members to compose a Committee of three (3) **to five (5) members.**
- The Committee members shall select a Chair from amongst its three (3) **to five (5)** sitting members at its first meeting.
- Members of the Committee shall receive a retention honorarium of **\$350.**, including mileage, for attendance at a training session the costs of which shall be shared equally amongst the Joint Participants.
- Members shall receive an honorarium of **\$250.** per meeting, plus mileage at the rate of the responding municipality.
- **The Region shall, on behalf of the Area Clerks, take the necessary steps to secure an Auditor to undertake any audits as may be requested by the Committee.**

FINANCIAL IMPLICATIONS:

The Terms of Reference include a retainer of \$350.00 (increase from the previous term of \$300.00) for each member (including training and mileage), and a per diem rate of \$250.00 (increase from the previous term of \$200.00) per meeting, plus mileage, at the rate of the responding municipality requiring the services of the Committee. The retainer costs will be shared among the Joint Participants while the per diem and mileage costs will be borne by the responding municipality.

Any auditor or legal costs incurred with a compliance audit application will be the responsibility of the responding municipality.

INTER-DEPARTMENTAL COMMENTS:

This report and the draft terms of reference (Schedule A) was distributed to and reviewed by the CAO and Treasurer/Director of Finance and no concerns or additional comments were provided.

CONCLUSION:

It is recommended that the Township of West Lincoln continue its participation in the Joint Niagara Compliance Audit Committee and that Council approve the Terms of Reference attached as Schedule A to this report.

Prepared by:




**Jessica Dyson,
Deputy Clerk**

Approved by:



**Bev Hendry,
CAO**

Submitted by:



**Joanne Scime,
Director of Legislative Services/Clerk**