

ADMINISTRATIVE REPORT

**Subject: Establishment of the 2022 Municipal Election
Compliance Audit Committee**

Date: September 12, 2022

To: Mayor and Council

From: Gabrielle Lecuyer, Municipal Clerk



ISSUE:

Establish a Compliance Audit Committee

ADMINISTRATIVE RECOMMENDATION:

THAT Council approval of this report will agree with the Municipal Clerk / Returning Officer to enact a By-Law to establish the legislated required Compliance Audit Committee for the 2022 Municipal Elections and that the Clerk bring forward the necessary By-Law for enactment

STRATEGIC IMPACT:

N/A

OPTIONS & ALTERNATIVES:

The By-Law is legislated by October 1st 2022, Council may choose to advertise for members and opt not to participate with other Municipalities this options provides for additional cost. Past experience there has been challenges to find interest to have individuals sit on this committee.

HISTORY:

- Section 88.37 of the Municipal Elections Act (MEA) requires a council to establish a compliance audit committee (CAC) before October 1st of an election year.
- The role of the CAC is to consider applications from an elector who is entitled to vote and who believes on reasonable grounds that a candidate or registered third-party has contravened a provision of the MEA pertaining to campaign finances. (MEA s.88.33)
- The CAC will also consider reports from the Clerk that determine whether any contributor to a candidate for office appears to have exceeded any of the contribution limits of the MEA. (MEA s.88.34(4))
- The MEA requires the composition of the committee be no fewer than three and not more than seven members.

- The CAC shall have a four year term commencing on December 1, 2022 and ending on November 14, 2026.
- Who is ineligible to serve on the CAC:
 - employees or officers of the municipality or local board;
 - members of Council or local board;
 - any persons who are candidates in the election for which the committees are established or;
 - any persons who are registered third-partiers in the municipality in the election for which the committee is established
- Historically the District Clerk's have coordinated the creation of this Legislated Committee by designating each Clerk of each District Municipalities to serve on this Committee

ANALYSIS:

- Rules Governing Committee Members along with any requirements relating to conflict of interest have been established
- The benefit of this model is that the Municipality does not provide for any retainer fee
- Attached are the Terms of Reference for the CAC

CONSULTATION:

- Township of Atikokan
- Township of Alberton
- Township of La Vallee
- Township of Emo
- Township of Chapple
- Township of Lake of the Woods
- Township of Sioux Narrows Nester Falls
- Township of Morley
- Township of Dawson
- Township of Rainy River

SUPPORTING DOCUMENTS:

[by-law XX-22 Joint Compliance Audit Committee Terms of Reference](#)
[XX-22 schedule A Terms of Reference for Compliance Audit Committee](#)

THE CORPORATION OF THE TOWN OF FORT FRANCES

BY-LAW NO. XX-22

(Being a by-law to appoint a Joint Compliance Audit Committee.)

WHEREAS pursuant to the *Municipal Elections Act, 1996* a council or local board shall, before October 1st, 2022 establish a committee for the purpose of Section 81;

AND WHEREAS Council of the Corporation of the Town of Fort Frances deems it expedient to pass a by-law to adopt the terms of reference for a joint compliance audit committee;

NOW THEREFORE Council of the Corporation of the Town of Fort Frances **HEREBY ENACTS AS FOLLOWS:**

1. A Committee, to be known as the Joint Compliance Audit Committee, is hereby established to deal with the matters provided for in Section 81 of the *Municipal Elections Act, 1996*.
2. The Joint Compliance Audit Committee Composition and Terms of Reference be established as attached Schedule A.

This by-law shall come into force and take effect on the final passing thereof.

ENACTED and **PASSED** this 12th day of September 2022

J. Caul, Mayor

G. Lecuyer, Clerk

TERMS OF REFERENCE

FOR JOINT COMPLIANCE AUDIT COMMITTEE

1. Authority:

The powers and functions of the Compliance Audit Committee (hereinafter referred to as the "Committee") are set out in the *Municipal Elections Act, 1996*.

2. Roles and Responsibilities:

The role of the Compliance Audit Committee is to receive and make decisions about applications for compliance audits of candidate and Registered Third Party election campaign finances, appoint auditors where applicable, receive compliance audit reports and make decisions with regards to reports that indicate apparent contraventions of the rules.

- (a) Within 30 days of receipt of an application requesting a compliance audit, the Committee shall consider the compliance audit application and decide whether it should be granted or rejected;
- (b) If the application is granted, the Committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances;
- (c) The Committee will review the auditor's report within 30 days of receipt and decide whether legal proceedings should be commenced; and
- (d) If the auditor's report indicates that there were no apparent contraventions and if there appears there were no reasonable grounds for the application, the Committee shall advise Council accordingly.

3. Eligibility to Serve on Committee:

- (a) The Clerk or designate of each participating municipality shall be appointed as a Committee member for those participating municipalities as set out on Appendix 'A' attached hereto.
- (b) If a designate is appointed in place of the Clerk, the designate must have the necessary qualifications and experience in municipal elections and accounting to perform the duties as a Committee member.
- (c) Any person who has:
 - (i) participated as a candidate in the elections of the participating municipalities on whose Committee he or she is appointed as a member; or
 - (ii) conducted audits or provided financial advice in respect of such campaigns,is not eligible to be appointed to the Committee for the participating municipalities during the subject term.
- (e) Members of Council and candidates who are running for office in the 2022 municipal election are not eligible to be appointed to the Committee.

4. Rules Governing Committee Members:

- (a) If a Committee member at any time during the term of his or her appointment, either accepts employment with or registers as a candidate for any of the participating municipalities on whose Committee he or she serves as a Member, his or her

appointment to the Committee shall be terminated effective upon commencement of such employment or registration of candidacy.

- (b) Each Committee Member shall not at any time during the term of his or her appointment work for, or provide advice to, any candidate running for municipal office within the participating municipalities on whose Committee he or she serves as a Member.
- (c) To avoid any potential conflict of interest, any Committee member who has an accounting or auditing background shall not offer his or her services to any municipal election candidate.

5. Committee Composition:

The Committee of each participating municipality shall be comprised of three members.

When a municipality is in receipt of a compliance audit application, the Clerk of the municipality receiving the application shall contact that municipality's Committee members, as shown on Appendix 'A' hereto, and shall arrange for the three Members to hear the audit request during regular business hours. If one of the three appointed Committee members is unable to participate when the Committee is required to process a compliance audit application, an alternate will be appointed to the Committee in place of the member who is unable to participate. An alternate committee member will be any Clerk from any Participating Municipality, selected in order of next closest proximity to the Municipality requiring the Compliance Audit.

6. Term of Appointment:

The term of appointment to the Committee shall be equivalent to the term of Council during which the appointment was made.

7. Governance

Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with the *Municipal Elections Act*.

8. Committee Chair:

The three-member Committee called to hear a request for a compliance audit shall, at its first meeting, select one of its Members to act as a Chair for the balance of its term of appointment.

9. Proposed Meeting Schedule:

The Committee shall meet during regular business hours, as required when a compliance audit application is received. Committee meetings shall be scheduled during regular business hours by the Clerk of the municipality in which an application is received, in consultation with the Committee Chair.

10. Staffing and Funding:

Administrative support for the Committee shall be provided by the municipality requiring the services of the Committee.

A municipality requiring the services of the Committee shall be responsible for all expenses associated with the Committee's processing of an application for a compliance audit on its behalf. The municipality requiring the compliance audit shall reimburse Committee members

for mileage at the rate of the committee members' municipality and for expenses incurred for which supporting documentation is provided.

11. Meetings:

Meetings of the Committee shall be conducted (during regular business hours) in accordance with the open meeting requirements of the provisions in the *Municipal Act, 2001*. Where an application will be considered at the meeting, the Clerk shall give reasonable notice by e-mail, telephone or by regular mail to the Applicant and Candidate of the time, place and purpose of the Committee Meeting, and of the fact that if either party fails to attend the meeting, the Committee may proceed in the party's absence and the party will not be entitled to further notice concerning the meeting.

12. Remuneration

Municipalities shall pay no retainer fee for participating in this agreement.

13. Conflict of Interest

Members shall abide by the rules outlined within the *Municipal Conflict of Interest Act, R.S.O. 1990*, and shall disclose the pecuniary interest to the recording secretary and absent themselves from meetings for the duration of the discussion and voting (if any) with respect to the matter.

APPENDIX ‘A’
to
Terms of Reference for Joint Compliance Audit Committee

Joint Compliance Audit Committee membership for each Participating Municipality

An alternate committee member will be any Clerk from any Participating Municipality, selected in order of next closest proximity to the Municipality requiring the Compliance Audit.

NAME OF MUNICIPALITY	COMMITTEE MEMBER	COMMITTEE MEMBER	COMMITTEE MEMBER
Atikokan	Fort Frances	Alberton	La Vallee
Fort Frances	Alberton	Atikokan	La Vallee
Alberton	Fort Frances	Atikokan	La Vallee
La Vallee	Fort Frances	Atikokan	Alberton
Emo	Chapple	Lake of the Woods	Sioux Narrows Nestor Falls
Chapple	Emo	Dawson	Sioux Narrows Nestor Falls
Morley	Dawson	Rainy River	Sioux Narrows Nestor Falls
Dawson	Morley	Chapple	Rainy River
Rainy River	Morley	Lake of the Woods	Dawson
Lake of the Woods	Morley	Emo	Rainy River
Sioux Narrows Nestor Falls	Emo	Lake of the Woods	Chapple