

The Corporation of the City of Temiskaming Shores

By-law No. 2022-110

Being a by-law to adopt the Timiskaming District Joint Compliance Audit Committee Terms of Reference under the Municipal Elections Act, 1996

Whereas Section 88.37 (1) of the Municipal Elections Act, 1996 requires municipalities to appoint Compliance Audit Committees to deal with matters regarding election campaign finances before October 1 of an election year; and

Whereas Section 88.37 (6) establishes that the Clerk of the municipality shall establish administrative practices and procedures for the compliance audit committee; and

Whereas Council considered Administrative Report No. CS-023-2022 at the June 21, 2022 Regular Council meeting, and directed staff to prepare the necessary by-law to adopt the Timiskaming District Joint Compliance Audit Committee Terms of Reference for the 2022-2026 term, for consideration at the June 21, 2022 regular Council meeting; and

Whereas the following District and area municipalities deem it necessary to establish Terms of Reference for a Joint Compliance Audit Committee:

Township of Armstrong	Township of Brethour
Township of Casey	Township of Chamberlain
Municipality of Charlton and Dack	City of Temiskaming Shores
Town of Cobalt	Township of Coleman
Town of Englehart	Township of Evanturel
Township of Gauthier	Township of Harley
Township of Harris	Township of Hilliard
Township of Hudson	Township of James
Township of Kerns	Town of Kirkland Lake
Township of Larder Lake	Town of Latchford
Township of Matachewan	Township of McGarry
Village of Thornloe	Municipality of Temagami

Now therefore the Council of The Corporation of the City of Temiskaming Shores hereby enacts the following as a by-law:

1. That the business of the Timiskaming District Joint Compliance Audit Committee be conducted in accordance with the Terms of Reference set out in Schedule "A" attached hereto, which shall form part of this By-Law.
2. That the Clerk be delegated authority to amend the said Terms of Reference in accordance with the Timiskaming District Joint Compliance Audit Committee Administrative Practices and Procedures, as established by the Clerk.
3. That By-law No. 2018-119 is repealed upon this By-law coming into force and effect.
4. That this By-law shall come into force and take effect on November 15, 2022.

Read a first, second and third time and finally passed this 21st day of June, 2022.

Mayor

Clerk



Schedule “A” to

By-law 2022-110

Timiskaming District Joint Compliance Audit Committee Terms
of Reference

Timiskaming District Joint Compliance Audit Committee Terms of Reference (2022-2026)

Committee Mandate

The Timiskaming District Joint Compliance Audit Committee (hereinafter referred to as "TDCAC" or "Committee"), for the 2022-2026 Term of Council has full delegation of the authority under sections 88.33, 88.34, 88.35, 88.36 and 88.37 of the *Municipal Elections Act*, 1996 (hereinafter referred to as "MEA"), to receive and make decisions on applications for compliance audits of candidates' and registered third party advertisers' 2022 municipal election campaign finances and any by-election campaign finances during the 2022 - 2026 Council term. The TDCAC is also responsible for reviewing reports submitted to the TDCAC by the Clerk with respect to any contributor who appears to have contravened any of the contribution limits to a candidates' or registered third party election campaign.

Scope of Responsibilities

The powers and functions of the TDCAC are set out in sections 88.33 to 88.37 of the MEA and are generally described as follows:

1. 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, with brief written reasons for the decision;
2. If the application is granted, the Committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances or the campaign finances of the registered third party;
3. The Committee will review the auditor's report within 30 days of receipt and shall decide whether legal proceedings should be commenced, with brief written reasons for the decision; and
4. Within 30 days after receipt of a report from any member municipality's Clerk of any apparent contribution in excess of the contribution limits to a candidate or registered third party, the Committee shall consider the Clerk's report and decide whether legal proceedings should be commenced, with brief written reasons for the decision.

The TDCAC is responsible for addressing any candidate's or registered third party advertisers' compliance audit applications or any candidate's or registered third party advertiser's contribution limits Clerk Reports originating from any of the following member municipalities during the 2022 to 2026 Council term:

Township of Armstrong, Township of Brethour, Township of Casey, Township of Chamberlain, Municipality of Charlton and Dack, City of Temiskaming Shores,

Town of **Cobalt**, Township of **Coleman**, Town of **Englehart**, Township of **Evanturel**, Township of **Gauthier**, Township of **Harley**, Township of **Harris**, Township of **Hilliard**, Township of **Hudson**, Township of **James**, Township of **Kerns**, Town of **Kirkland Lake**, Township of **Larder Lake**, Town of **Latchford**, Township of **Matachewan**, Township of **McGarry**, Village of **Thornloe**, and the Municipality of **Temagami**.

Committee Structure

The Committee shall be comprised of three (3) voting members of the public, with the provision for two (2) additional alternate members, all of who are qualified individuals.

Committee members will be appointed by each municipal member Council in accordance with each member municipality's established procedures.

At its first meeting, the Committee shall select and appoint one (1) of its members to act as a Chair and one (1) of its members to act as a Vice Chair for the duration of the Committee's term.

Alternate members will be called upon in the event that one of the three (3) voting members is unable to serve and/or attend meetings during the period of appointment, or, if a member resigns from the Committee or is disqualified. Alternate members assume all of the rights and privileges of a voting member, if called upon.

The Clerk, or their designate, of the respective municipality will act as recording secretary and provide administrative support to the Committee.

The Clerk within each member municipality shall establish administrative practices and procedures for the Committee and shall carry out any other duties required under the MEA to implement the Committee's decisions.

Membership Selection Criteria

Members must possess an in-depth knowledge of the campaign financing rules of the MEA, therefore, preference will be given to applicants from the following stakeholder groups:

1. Accounting and audit - accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates; and/or
2. Legal profession with experience in municipal law, municipal election law or administrative law; and/or
3. Academic - college or university professors with expertise in political science or local government administration; and/or

4. Other individuals with demonstrated knowledge of the Municipal Act, 2001 and campaign financing rules of the MEA.
5. Additional skills and experience:
 - a. Proven analytical and decision-making skills; and/or
 - b. Experience working on committees, task forces or similar settings; and/or
 - c. Availability and willingness to attend meetings.

To avoid a conflict of interest, any auditor or accountant appointed to the Committee must not have undertaken an audit or prepared the financial statements of any of the candidates or registered third party involved in the 2022 Municipal Elections for any member municipality.

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

As part of the application process, members must agree that they will not file nomination papers or register as a third party advertiser within any of the member municipalities, work or volunteer for, or contribute to, any candidate or registered third party in any capacity in an election within any of the member municipalities, or provide advice to any candidate running for municipal office or any registered third party within any of the member municipalities.

The Clerk, or their designate, from certain member municipalities will serve on the Selection Working Group for the TDCAC. The Selection Working Group shall meet to review all applications received based upon the membership selection criteria. The Selection Committee shall prepare a list for appointment according to the process approved by the Councils of the member municipalities.

Qualifications

A person is eligible for appointment to the TDCAC who is:

- an individual who is normally resident in Ontario;
- a Canadian citizen, and
- at least 18 years old.

Disqualification

As per Section 88.37 (2) of the MEA:

1. Anyone who has participated as candidates or register third party advertisers in any of the member municipality elections, or who have conducted audits or provided financial advice in respect of such campaigns, would be disqualified from participation on the TDCAC; and

2. Members of council, staff, members of the public elected to serve on any committee of council or local board, and candidates running for office in the 2022 Municipal Election or registered third party advertiser from any member municipality.

Should an appointed member accept employment with any of the member municipalities or register as a candidate or third party advertiser with any of the member municipalities, their appointment will be terminated.

Vacancy

If there is a Committee vacancy resulting from disqualification or otherwise, individuals qualified and interested in appointment shall be sought by using one or more of the following methods; inviting applications by posting a notice, contacting previous Committee members, or reviewing previous Committee applications received. This will be determined by the Clerks of the member municipalities. Once a qualified applicant has been determined, each of the member municipalities shall report to their respective Councils and present an amending By-Law to fill the vacancy.

Meetings

The Committee members will be required to participate in an orientation training session as a condition of the appointment.

The Committee shall meet, as needed. Subsequent meetings of the same matters will be held at the call of the Chair. All time frames established in the MEA and regulations shall be adhered to.

When a member municipality is in receipt of either a compliance audit application or a report of the Clerk, the Clerk of the applicable member municipality shall contact the Committee Members and arrange for a meeting to consider the compliance audit request or report of the Clerk.

Meeting Procedures

Meetings of the Committee shall be conducted in accordance with the Administrative Practices and Procedures for the TDCAC as established by the Clerks of the member municipalities.

Pursuant to the MEA, the meetings of the Committee shall be open to the public, but the Committee may deliberate in private.

The Committee may put in place open meeting requirements and other provisions similar to that of the *Municipal Act*, and any other applicable legislation as required.

The Clerk shall cause reasonable notice of meetings, when required under the MEA, in accordance with the Administrative Practices and Procedures for the MCAC.

The websites of the member municipalities will be utilized to communicate the meeting notices, agendas and minutes, and will be made available in alternate formats upon request.

Committee records shall be kept in accordance with Section 88 of the MEA and the member municipality's most current Record Retention Schedule.

Meeting Location

The TDCAC meetings shall be held in person or via electronic participation, to be determined by the Clerk of the applicable member municipality. The date and location shall also be determined by the respective Clerk.

Reporting and Communication Structure

The TDCAC will report to the respective Council(s), if necessary, subject to the requirements of the MEA.

Governance

Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Sections 88.33 to 88.37 of the MEA and the Administrative Practices and Procedures for the MCAC.

Term: Members will be appointed no later than October 1, 2022 for the four (4) year term commencing November 15, 2022 to November 14, 2026. If an audit goes beyond the Committee term, the appointment may require an extension.

Costs

In accordance with the MEA, the council or local board, as the case may be, shall pay all costs in relation to the Committee's operation and activities. The municipality from where the compliance audit application or Clerk's report originates shall pay all costs in relation to the Committee's operation and activities regarding that specific request or report, including but not limited to general costs associated with the Committee, costs of any audit that takes place and costs of legal counsel for the Committee.

Conflict of Interest

Members shall abide by the rules outlined within the *Municipal Conflict of Interest Act*, and shall disclose any 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.

Remuneration

Per diem rate of \$150.00 per meeting or training session Mileage: \$0.50 per kilometer.