



MUSKOKA COMPLIANCE AUDIT COMMITTEE 2018-2022 Terms of Reference

Committee Mandate:

The Muskoka Compliance Audit Committee (hereinafter referred to as “MCAC” or “Committee”), for the 2018-2022 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 2018 municipal election campaign finances and any by-election campaign finances during the 2018 to 2022 Council term. The MCAC is also responsible for reviewing reports submitted to the MCAC 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 MCAC 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 MCAC is responsible for addressing any candidates' or registered third party compliance audit applications or any candidates' or registered third party contribution limits Clerk's reports originating from any of the following member municipalities during the 2018 to 2022 Council term:

- District of Muskoka
- Town of Bracebridge
- Town of Gravenhurst
- Town of Huntsville
- Township of Georgian Bay
- Township of Lake of Bays
- Township of Muskoka Lakes



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Committee Structure:

The Committee shall be comprised of three (3) voting members of the public¹, 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.

Additional skills and experience:

1. Proven analytical and decision-making skills; and/or

¹ Section 88.37 (2) of the MEA states the committee shall be composed of not fewer than three and not more than seven members.



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2. Experience working on committees, task forces or similar settings; and/or
3. 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 2018 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 each member municipality will serve on the Selection Committee for the MCAC. The Selection Committee 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 Committee who is:

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

Disqualification:

Anyone who has participated as candidates or register third parties 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 Committee.

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 2018 Municipal Election² or registered third party from any member municipality are not eligible to be appointed to the Committee. 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.

² Section 88.37 (2) of the MEA states that the committee shall not be composed of employees or officers of the municipality or local board, members of the council or local board, any persons who are candidates in the election for which the committee is established or any persons who are registered third parties in the municipality in the election for which the committee is established.



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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 Council's 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. 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. 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.

Meeting Procedures:

Meetings of the Committee shall be conducted in accordance with the Administrative Practices and Procedures for the MCAC as established by the Clerks of the member municipalities. Further, 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, 2001*, 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 meetings shall be located at a central location, to be determined by the Clerk of the applicable member municipality. The date and location shall also be determined by the respective Clerk.



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Reporting and Communication Structure:

The Committee will report to the respective Council, 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, 2018 for the four (4) year term commencing December 1, 2018 to November 14, 2022. 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, 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.

Remuneration:

Per diem rate of \$250.00 per meeting or training session

Mileage: \$0.50 per kilometre