

Appendix A

Compliance Audit Committee – Terms of Reference

A. Background

Section 88.33 of the *Municipal Elections Act, 1996*, as amended, states:

An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances, even if the candidate has not filed a financial statement.

Section 88.35 of the *Act* states:

An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement.

Sections 88.34 and 88.36 of the *Act* require the Clerk to review the contributions reported on the financial statements of candidates and registered third party advertisers to determine whether any contributor appears to have exceeded any of the contribution limits.

As soon as possible, 30 days after the filing date, the Clerk is required to prepare a report of any apparent contraventions to the contribution limits and forward the report to the Compliance Audit Committee.

Under the *Act*, municipalities are required to establish a Compliance Audit Committee prior to October 1 in the year of a regular election.

B. Definitions

Act	<i>Municipal Elections Act, 1996, as amended</i>
Auditor	A person licensed under the <i>Public Accounting Act, 2004</i>
Committee	Compliance Audit Committee
School Board	A publicly-funded school board operating within the City of Brampton

C. Composition

The Committee shall be comprised of minimum of three and up to seven members of the public. A quorum of a majority of the Members will be required to proceed with any meeting.

The following are not eligible for appointment to the Committee:

- Employees of the City of Brampton
- Employees of the Region of Peel
- Employees of the School Boards
- Members of Brampton City Council
- School Board Trustees
- Candidates and registered third party advertisers for the municipal election campaign for which the compliance audit application is filed

Preference shall be given to applicants with a background in accounting, auditing, academia and/or law and/or who have knowledge of campaign financing rules of the *Act*.

D. Term

The Term of the appointment for Committee members is concurrent with the Term of Council.

E. Mandate

1. The Committee shall operate in accordance with the *Act*, *Municipal Freedom of Information and Protection of Privacy Act* and the City of Brampton Procedure Bylaw.
2. The Committee shall review the Clerk's report on apparent contraventions to the contribution limits and decide on whether to commence a legal proceeding.
3. The Committee shall review applications submitted by eligible electors for a compliance audit of a candidate's or registered third party's campaign finances and determine whether or not an audit is warranted.
4. If the Committee determines an audit is necessary it shall appoint an Auditor licensed under the *Public Accounting Act, 2004* to conduct the audit (See Section F – Appointment of an Auditor)
5. If the Auditor concludes a candidate or registered third party appears to be in contravention of the *Act*, the Committee shall decide whether or not to initiate legal proceedings against the candidate or registered third party.
6. If the Auditor concludes that the candidate or registered third party does not appear to be in contravention of the *Act* relating to election campaign finances, the Committee shall make a decision on whether there were reasonable grounds for the application.
7. If the Committee determines there are no reasonable grounds, City Council or the School Board, as the case may be, is entitled to recover the Auditor's costs from the applicant.

F. Appointment of an Auditor

If Committee decides an audit is required, it will select from a roster of auditors to be provided to the Committee by the City Clerk. The City Clerk, in consultation with the Corporate Services Department and Director, Internal Audit, will establish criteria for the appointment of an Auditor.

G. Duties and Power of the Auditor

1. The Auditor shall promptly conduct an audit of the candidate's or registered third party's election campaign finances to determine whether he or she has complied with the provisions of the *Act* relating to election campaign finances.
2. The Auditor shall prepare a report outlining his/her findings (i.e. any apparent contravention of the *Act* by the candidate or registered third party).
3. For the purpose of the audit, the Auditor:
 - a) will be provided access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
 - b) has the powers of a commission under Part II of the *Public Inquiries Act*, which part applies to the audit as if it were an inquiry under the *Act*.

H. Meeting Support

The City Clerk's Office will provide administrative support to the Committee.

The City Clerk's Office will organize and deliver an orientation for the Committee, or any new member, prior to hearing any application for a compliance audit.

I. Committee Remuneration

Each member who participates in a meeting to consider applications for compliance audit shall be paid an honorarium of \$200 per meeting.

J. Meeting Costs

The City of Brampton or School Board, as the case may be, is responsible for the following costs, or proportionate share of costs:

- a) The Committee's operation and activities
- b) The cost of the Auditor for an audit
- c) The cost of external legal counsel for the Committee

Appendix B

Compliance Audit Committee – Procedures

A. Meeting Procedures

The Compliance Audit Committee will generally follow procedures in accordance with the *Municipal Elections Act, 1996*, as amended, (*the “Act”*) and the City of Brampton Procedure By-law but may vary these procedures or may establish other procedures as required.

The meetings of the Committee shall be open to the public, but the Committee may deliberate in private, in accordance the Act.

B. Clerk’s Report on Apparent Contraventions to the Contribution Limits

1. As soon as possible, 30 days after the filing date for financial statements, the Clerk is required to prepare a report of any apparent contraventions to the contribution limits and forward the report to the Compliance Audit Committee.
2. The Clerk will schedule a meeting of the Committee to take place within 30 days of the Committee receiving the report. The procedures set out in Section E shall apply, with necessary modifications, regarding the consideration of the Clerk’s report and representations by the Contributor, Candidate and/or Third Party Advertiser, as the case may be.
3. At the meeting, the Committee will decide whether to commence a legal proceeding against a contributor for an apparent contravention.
4. The decision of the Committee, along with brief written reasons for the decision will be given to the:
 - a) Contributor;
 - b) Clerk; and
 - c) Secretary of the local board, if applicable.

C. Filing of an Application for Compliance Audit

1. An application for a compliance audit must be filed by an elector, in writing, including reasons and any supporting documentation to the City Clerk's Office or School Board (unless authority is delegated to the City of Brampton), if the elector believes on reasonable grounds that a

candidate or registered third party advertiser is in contravention of the *Act* as it relates to campaign finances.

2. In accordance with the *Act*, the application must be filed with the City Clerk within 90 days after the latest of:
 - a) The date the candidate or registered third party files his or her financial statement under Sections 88.25 (1) and 88.29(1); or
 - b) The date the candidate or registered third party files his or her supplemental financial statement under Section 88.25 (4) and 88.29 (3); or
 - c) The filing date for the final financial statement under section 88.32 (5) (return of surplus for subsequent expenses); or
 - d) The date on which the candidate's or registered third party's extension granted by the Ontario Court of Justice, if any, under subsection 88.23 (6) and 88.27 (3) expires.

D. Scheduling a Compliance Audit Committee Meeting for review of an Application for Compliance Audit

1. Within 10 days after receiving the application the City Clerk shall:
 - a) Set the time and place for the Committee meeting, ensuring that it is within 30 days of the Committee receiving the application.
 - b) Circulate a copy of the application and meeting agenda to the:
 - i) Committee;
 - ii) Secretary of the local board, if applicable;
 - iii) Candidate or registered third party named on the application; and
 - iv) Elector who filed the application.

E. Committee Meeting – Review of Application for Compliance Audit

1. A quorum of a majority of the Members is required to proceed with the meeting.
2. At the first meeting, the Committee will appoint a Chair.
3. External Counsel will be available to the Committee during the meeting and after to provide advice as required.
4. Committee Members are subject to *Municipal Conflict of Interest Act* in regard to hearing of an application.

5. The applicant and candidate or registered third party or their representative will be given the opportunity to address the Committee for a maximum of 5 minutes each, unless the Committee decides otherwise. The applicant will be given the opportunity to speak first.
6. The Committee Members will have the opportunity to then ask questions of the applicant and candidate or registered third party.
7. Once the Committee has determined that no further questions or discussion with the applicant and candidate or registered third party is required, the Committee will decide whether or not to grant the application. If the Committee decides to grant the application, it shall appoint an Auditor to conduct a compliance audit of the candidate's or registered third party's election campaign finances.
8. The decision of the Committee, along with brief written reasons for the decision will be given to the:
 - a) Clerk;
 - b) Secretary of the local board, if applicable;
 - c) Candidate or registered third party named on the application;
 - d) Elector who filed the application; and
 - e) External Legal Counsel for the Committee.

F. Appeal Compliance Audit Committee's Decision

The decision of the Committee to require a compliance audit may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the Court may make any decision the Committee could have made.

G. Auditor's Report

If an Auditor's report is requested, the Auditor will be provided access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate or registered third party and of the municipality or School Board, as the case may be, to assist in the conduct of the audit.

H. Committee Meeting – Review of Auditor's Report

1. The Auditor shall submit a copy of the report to the:
 - a) Candidate or registered third party named on the application;
 - b) City Clerk;
 - c) Secretary of the local board, if applicable; and
 - d) Elector who filed the application.
2. Within 10 days after receiving the Auditor's report, the City Clerk's Office shall:

- a) Set the time and place of the meeting within 30 days of the Committee receiving the report;
 - b) Circulate a copy of the report and meeting agenda to the Compliance Audit Committee;
3. External Counsel will be available to the Committee during the meeting and after to provide advice as required.
4. Committee Members are subject to *Municipal Conflict of Interest Act* in regard to hearing of an application.
5. The applicant and candidate or registered third party, or their representative, will be given the opportunity to address the Committee and ask questions of the auditor for a maximum of 5 minutes each, unless the Committee decides otherwise. The applicant will be given the opportunity to speak first.
6. The Committee Members will have the opportunity to then ask questions of the Auditor, applicant and candidate or registered third party.
7. The Committee shall make a finding and decision to reflect the following:
 - a) If the report concludes that the candidate or registered third party appears to have contravened provisions of the *Act* relating to election campaign finances, the Committee may decide whether or not to commence a legal proceeding against the candidate or registered third party for the contravention;

or

 - b) If the report concludes that the candidate or registered third party does not appear to have contravened provisions of the *Act* relating to election campaign finances, the Committee may determine whether there were reasonable grounds for the application.
8. The decision of the Committee, along with brief written reasons for the decision will be given to the:
 - a) Clerk;
 - b) Secretary of the local board, if applicable;
 - c) Candidate or registered third party named on the application; and
 - d) Elector who filed the application.