

Attachment-1 Draft Terms of Reference

Municipal Election Compliance Audit Committee (MECAC)

Terms of Reference

Refer to Section 88.37 of the Municipal Elections Act, 1996

1. Name of Committee

The Participating Municipalities have agreed to create a joint Municipal Election Compliance Audit Committee, which is named:

the “Municipal Election Compliance Audit Committee” (“MECAC”)

2. Definitions

“Act” means the “*Municipal Elections Act, 1996*” as amended.

“Clerk” means the Clerk of the municipality or designate.

“Conflict of Interest” means a situation in which a member is in a position to derive personal benefit from actions or decisions made in their official capacity on the Committee

“Conflict of Pecuniary Interest” means the potential, perceived or actual financial gain or loss a Member may experience, directly or indirectly, from their membership on the Committee.

“Host Municipality” means the municipality where the application for a compliance audit is received. A Host Municipality can only receive applications for candidates or third parties registered in its municipality.

“Participating Municipalities” means the municipalities who have agreed to participate in a joint MECAC and includes:

- The City of Cambridge
- The City of Guelph
- The City of Kitchener
- The City of Waterloo
- The Township of North Dumfries
- The Township of Wellesley
- The Township of Wilmot
- The Township of Woolwich
- The Region of Waterloo

3. Duration

The term of office for the committee shall be from November 15, 2022 to November 14, 2026 to deal with applications from the 2022 election and any by-elections during Council's term.

The establishment of this Committee and its terms of reference will be reviewed prior to the start of the next term of Council.

4. Mandate

The MECAC will operate within the provisions of the Act.

The MECAC will consider an application for a compliance audit of a candidate's or registered third party's election campaign finances received under Sections 88.33 or 88.35 of the Act from an elector to determine if the application should be granted or rejected. If granted, the MECAC will appoint an auditor, receive and consider the auditor's report, and decide whether legal proceedings should commence or if there were reasonable grounds for the application.

MECAC will also receive the Clerk's report identifying apparent contribution contraventions, prepared under Section 88.34 of the Act. Within 30 days after receiving a Clerk's report, the MECAC shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

5. Advertising, Applications and MECAC Pool Selection

The terms of reference and application form will be posted, as a minimum, on the municipal websites of the member municipalities to solicit membership for the MECAC pool. Staff will also contact and solicit those individuals with the qualifications listed in Section 6 of these Terms of Reference. In addition, previous MECAC members may be contacted, along with direct contacts by municipal staff.

All applicants will be required to complete an application form outlining their qualifications and experience. The Clerks of the Participating Municipalities will meet to review the applications. A pool of up to ten (10) members for MECAC will be developed and approved by the Clerks of the Participating Municipalities. Appointments to the MECAC pool will be approved by a majority vote of the Clerks.

6. MECAC Pool Eligibility

Members of the MECAC pool will be selected based on the following:

- demonstrated knowledge and understanding of municipal election financing rules;
- proven analytical and decision-making skills;
- experience working on a committee, task force or similar setting;
- availability and willingness to attend meetings during the day or evening;
- excellent oral and written communication skills
- expertise in:
 - accounting and audit;
 - academic with expertise in political science or local government;
 - legal;
 - knowledge of the campaign finance rules contained in the Act.

Members of the MECAC pool shall not include:

- members of any municipal Council represented;
- employees or officers of the municipalities represented;
- 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.

7. Committee Selection

When an application is made to MECAC, the Clerk of the Host Municipality shall determine the composition and membership of the Committee. The Committee shall be composed of not fewer than three (3) and not more than seven (7) members from the MECAC pool.

To determine membership, the Clerk of the Host Municipality shall contact members of the pool to form the membership of the Committee to hear the application. It is at the full discretion of the Clerk of the Host Municipality to determine the order that members from the MECAC pool will be contacted.

The Chair of the MECAC will be selected by resolution at the start of the first meeting of each MECAC application by the members present.

8. Committee Meetings

Meetings of the Committee shall be open to the public. The meetings may be held either in person or electronically at the host municipal clerk's discretion.

8.1 Closed Meetings of Committees

MECAC may deliberate in closed session as needed and will follow the procedures of the Host Municipality.

8.2 Timing of Meetings

Meetings shall be called by the Clerk of the Host Municipality as required under the provisions of the *Municipal Elections Act*. The periods for receiving applications and holding meetings shall be as established by the *Municipal Elections Act*.

The Clerk of the Host Municipality will be responsible for determining the location of the meeting, scheduling the meeting and communicating the meeting details directly to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the Clerk of the Host Municipality.

8.3 Meeting Notices, Agenda and Minutes

The agenda shall constitute notice. A minimum of two (2) business days prior to the date of each meeting, not including weekends or holidays, the agendas and minutes of the meetings shall be posted on the member municipality's website. Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

The Clerk of the Host Municipality is responsible for the administrative duties associated with MECAC, but may contact the Clerk of any of the participating municipalities for assistance with minutes or any other matters if required.

8.4 Meeting Procedures

Quorum will be a majority of the members of the MECAC.

Voting by consensus will be used for decisions of the Committee or a majority vote by members, usually performed by the show of hands. The Chair is also entitled to a vote on MECAC.

Meetings will be governed by the Procedural By-law of the Host Municipality and Roberts Rules of Order as required.

8.5 Meeting Remuneration and Expenses

Members of the MECAC shall be paid a rate of \$200 per meeting plus the applicable mileage rate from the Host Municipality. Expenses will be paid by the Host Municipality.

9. Conflict of Interest Policy

Members of the MECAC will conform to the Conflict of Interest Policy, attached as Schedule "A" to these Terms of Reference.

10. Removal of Members

The current MECAC may recommend to the Clerk of the Host Municipality for the removal of a member for reasons as listed, but not limited to:

- the member being in contravention of the *Municipal Act, 2001*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Provincial Offences Act*, the *Municipal Elections Act, 2001* or the *Municipal Elections Compliance Audit Committee Conflict of Interest Policy*;
- the member being in contravention of the Code of Conduct and/or Procedural By-law of the Host Municipality; or
- other legal issues
- If a member is unable to attend three meetings in a row
- The member becomes unable to fulfill the duties of the MECAC Pool

The Clerk of the Host Municipality may select another person from the MECAC Pool if necessary.

11. Errors/Omissions

The accidental omission to give notice of any meeting of the MECAC to its members, or the non-receipt of any notice by any of the members, or any error in any notice that does not affect its substance, does not invalidate any resolution passed or any proceedings taken at the meeting. Any members of the MECAC may at any time waive notice of the meeting.

12. Administrative Practices and Procedures

The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Section 88.33 to 88.37 of the *Municipal Elections Act, 1996*.

The Clerk of the Host Municipality, has the right to develop additional administrative practices and procedures at any time.

Municipal Elections Compliance Audit Committee (MECAC)

Conflict of Interest Policy

Policy Application

This policy applies to the Municipal Elections Compliance Audit Committee (MECAC) for the municipalities of the Region of Waterloo, Cities of Cambridge, Guelph, Kitchener, Waterloo, Townships of North Dumfries, Wellesley, Wilmot and Woolwich.

Operating Principles:

Members of the MECAC have a duty to conduct themselves in an impartial and objective manner. It is recognized that appointees have a broad range of interests and, from time to time, actual or perceived conflicts of interest or conflicts of pecuniary interest (or the appearance of such conflicts) may arise. The purpose of this policy is to enable the MECAC to deal with such conflicts in as open and appropriate a way as possible.

It is understood that members of MECAC will perform their duties in such a way as to promote public confidence and trust in the integrity, objectivity and impartiality of the Committee. No member shall directly or indirectly receive any profit from his/her position, provided that an honorarium, as established in the Terms of Reference and reasonable expenses may be paid in the performance of their duties.

Definitions

“Affected Party” means any individual, partnership, corporation, organization or other legal entity, which has an interest in property, objects or other assets, which are the subject matter of consideration by the Committee;

“Business associate” means an individual in a formal partnership or in a shared ownership of a company or enterprise with a Member;

“Committee” is the Municipal Elections Act Compliance Audit Committee (MECAC);

“Immediate family” means a parent, child, spouse or common-law spouse of a Member;

“Member” is an individual formally appointed to the MECAC in accordance with the Terms of Reference.

Conflicts

Conflicts of pecuniary interest arise when Members may financially benefit, directly or indirectly, from their membership on a Committee. Such involvements include, but are not limited to, the following:

- Members being the Affected Party or employed by or doing business with the Affected Party
- Members’ immediate family being the Affected Party or employed by or doing business with the Affected Party

- Members' business associates being the Affected Party or employed by or doing business with the Affected Party

A conflict of interest may be an actual or perceived conflict of pecuniary interest. The same duty to disclose applies to each. The pecuniary interests of a Member's immediate family or business associate are considered to also be the pecuniary interests of the Member. Full disclosure in itself does not remove a conflict of interest.

Principles and procedures

It is important that Members be sensitive to appearance and perception and err on the side of transparency. In case of conflicts, whether personal or pecuniary, actual, potential or apparent, Members are expected to fully disclose the potential conflict. Members shall disclose any potential conflicts to the Clerk of the Host Municipality prior to being appointed to the Committee. If a potential conflict arises while sitting on the Committee, the Member shall disclose it as soon as it arises and before the Committee makes any decisions in the matter where the conflict exists.

Once such a disclosure has been made, the Member involved shall abstain from voting and shall not participate in the discussion of the matter, which gave rise to the conflict. The affected Member must not in any way, whether before during or after the meeting, attempt to influence the outcome of any discussion or voting on the matter. If the meeting at which the matter is discussed is not open to the public, in addition to the above, the Member must leave the meeting room for the duration of any discussion and voting on the matter.

In cases where one or more of the Committee's Members has abstained from voting as a result of conflict, such Members shall be identified in the minutes of the meeting.

Individual Members are encouraged to seek independent advice on conflicts or potential conflicts.

Quorum

Where the number of Members who, by reason of conflict, are unable to participate in a meeting such that the remaining Members no longer constitute a quorum as set out in the Committee's Terms of Reference, then remaining Members shall be deemed to constitute a quorum provided there are not less than two Members present.

Solicitation

No Member may in any way, either overtly or otherwise, use the fact of their membership on the Committee to solicit business for their own benefit or the benefit of their immediate family or business associates.