

Recommendations Report
JMAT – Joint Municipal Accountability and Transparency Committee

Submitted to the Deputy Minister of Municipal Affairs
March 30, 2017

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Introduction

In December 2016, the JMAT (Joint Municipal Accountability and Transparency) Committee was established. Committee members include representatives from the Union of Nova Scotia Municipalities (UNSM), the Association of Municipal Administrators Nova Scotia (AMANS) and the Department of Municipal Affairs (DMA).

JMAT's mandate as identified by the committee Terms of Reference is to:

- Ensure that mechanisms are in place to support the requirement of transparency and accountability to the public;
- Strengthen local government expense policies;
- Increase transparency of local government staff and elected officials' expenses to the public;
- Improve audit function on staff and elected officials' expenses; and
- Recommend amendments to the Municipal Government Act (MGA) where applicable.

JMAT's timeline was to provide recommendations to the Minister of Municipal Affairs by March 31st 2017. By submitting this document, JMAT has completed its mandate and the Committee is no longer active.

JMAT Committee Members

Bruce Morrison, Warden, Municipality of the County of Victoria (UNSM member)
Sandra Snow, Mayor, Town of Kentville (UNSM member)
Lois MacCormick, Chair, Village of Bible Hill (Association of Nova Scotia Villages)
Greg Herrett, CAO, Town of Amherst (AMANS member)
Mike Dolter, CAO, Town of Truro (AMANS member)

Shannon Bennett, Director of Governance and Advisory Services, DMA
Emily Pond, Municipal Advisor, DMA

Ex-officio members:

Janice Wentzell, Executive Director, AMANS
Betty MacDonald, Executive Director, UNSM

Background

Recently concerns have surfaced in Nova Scotia regarding management of the expenses of municipal staff and elected officials. Issues have been raised in the media and in a 2016 report from the Office of the Ombudsman.

JMAT would like to acknowledge that although issues have been identified, the Committee's position is most municipalities in Nova Scotia are currently managing CAO and council expenses appropriately; however, overall there is room for improvement. If JMAT's recommendations are accepted and implemented, these changes will make a significant impact towards improving transparency and accountability in this area of municipal governance in Nova Scotia.

Identified Issues

JMAT identified broad issues in relation to municipal accountability and transparency with respect to municipal staff and council expenses. The issues include:

- The public want to know that municipal funds are spent responsibly.
- There's no formal mechanism for municipal elected officials or staff to report concerns with respect to expenses.
- Strong leadership on the part of elected officials and Chief Administrative Officers (CAOs) is important.
- There are no clear consequences for violating expense policies and no one dedicated to enforcing compliance.
- DMA's role in enforcing municipal compliance with respect to the MGA is generally not clear.
- Expense policies and practices vary between municipalities.
- Standard financial internal controls are not consistently applied by all municipalities.
- There is no requirement for municipal audit committees to have an independent member.
- The scope of municipal audits and the content of auditor management letters could be improved.

In the process of developing their own recommendations, JMAT reviewed over sixty prior recommendations that came from various sources including:

- Grant Thornton Audit Report, in relation to the Municipality of the County of Richmond, July 31st 2015;
- Boyne Clarke report, overseeing Grant Thornton Forensic Investigation, Municipality of the County of Richmond, October 13, 2016;

- Office of the Ombudsman Final Report, Municipality of the County of Richmond, October 28, 2016;
- Any public correspondence received by the department; and
- Input from members of the UNSM as a result of a special meeting held in February 2017 on the issue of expenses and expense reporting.

Comment on Oversight Role: Municipal Auditor General

It should be noted that JMAT discussed the need for third party oversight in relation to municipal elected and CAO expenses. Discussion included acknowledgement of the fact that there is currently no municipal auditor general (MAG) for municipalities in Nova Scotia, with the exception of the Halifax Regional Municipality which employs its own MAG. The concept of a municipal auditor general for the other municipalities in Nova Scotia was considered by the province and UNSM several years ago.

JMAT's mandate was to look at the issue of municipal expenses of senior staff and elected officials, and the concept of a municipal auditor general was reviewed within this context. Typically, the scope of a municipal auditor general's work would be focused on value for money audits, and areas of highest risk. JMAT noted the estimated cost of creating an office for an MAG is some million dollars annually, and felt the rationale for recommending a MAG would have to be based on more than investigating expenses alone. JMAT feels there are better ways to deal with the expense issues.

JMAT's recommendations include consideration of the need to strengthen third party oversight in relation to expenses. These recommendations are: examining the role of Municipal Affairs in relation to municipal compliance with the *Municipal Government Act*, strengthening the role of the municipal auditor and the audit committee, and creating a complaint process for code of conduct violations which would encompass violations of expense policies.

Summary of Recommendations

Scope: recommendations apply to all municipalities in Nova Scotia, including the Halifax Regional Municipality and villages. A reference made to amend the MGA also includes an implied reference to amend the Halifax Charter when required.

1. Require municipalities to post expenses online

- Amend the MGA to require online reporting of travel, meal and professional development expenses of the CAO and elected officials;
- Each expense must be accompanied by an explanation of the business purpose;
- Expenses must be posted to each municipalities web site, updated at least every three months (quarterly basis);
- Expenses must be posted going forward from the date that legislative changes are proclaimed;
- A record of expenses must be maintained online, to include at a minimum the current and prior term of council;

- Amend MGA to require use of a standard expense reporting form. The reporting form is to be used online to report expenses to the public. Form to be included in FRAM regulations.

2. Strengthen expense policies and practices

- Amend the MGA to require municipalities to adopt an expense policy. The MGA will outline minimum contents which will include:
 - alcohol not be permitted to be expensed by an individual;
 - a corporate credit card policy; and
 - signing authorities.
- Amend the MGA to require municipalities to have a hospitality policy. Purchase of alcohol should be permitted only at the corporate level and must be purchased pursuant to a hospitality policy.
- Amend the MGA to require that by no later than January 31st following a general election, Council formally review both the expense and hospitality policies and by motion of Council, adopt or amend both policies.
- The MGA be amended to require the municipality to file by September 30th of each year, a summary report of CAO and elected officials' travel, meals and professional development expenses. Regulations, specifically FRAM (Financial Reporting Accounting Manual), be amended to require that this report be signed off by the municipality's auditor.
- JMAT recommends that DMA and UNSM make expense training part of standard orientation for new municipal councilors.

3. Require a code of conduct and a complaint process

- Amend MGA to require all municipalities to have a code of conduct for elected officials, include minimum content and consequences if breached. Compliance with the expense policy would be part of the code of conduct.
- Develop a formal process for municipal council and staff to report complaints.

4. Strengthen municipal audits and audit committees

- Amend the MGA to require that a position be created for at least one independent person on municipal audit committees and require that municipalities to advertise any vacant position.
- Amend the MGA to require the Audit Committee to meet at least twice a year.
- JMAT recommends as a best practice, municipalities should provide training to the audit committee; referencing section 44 of the MGA.
- Regulations (FRAM) be amended to identify areas that must be included in content of municipal auditor management letters. DMA to work with AMANS to develop minimum content requirements.

5. Clarify the role of DMA

- DMA should review and clarify its role in relation to municipalities complying with the MGA, and make the review public.
- DMA should consider development of a standard risk assessment tool to support municipalities internal control review, along with a standard letter format.

6. Other JMAT recommendations

CAO Performance Management:

- As a best practice, council conduct CAO performance management.
- Include as a Governance Indicator, whether Councils are performing CAO performance appraisals on an annual basis

Best practices, management of council/CAO expenses:

- Expenses for a spouse/partner should not be permitted.
- All municipalities use a standard expense claim form. The claim form is used internally to process expense claims. JMAT has developed this form as a resource for municipalities.

Best practices, internal controls for expenses of council/CAO:

- Adopt the use of per diems as a standard practice as opposed to requiring receipts.
- Adopt the following with respect to internal controls for expense reimbursement and reporting:
 - All credit card charges should be accompanied by detailed receipts. This should be incorporated into expense policies.
 - As a best practice, JMAT recommends that meal expenses (via per diems or receipts) should not be claimed when meals are provided at meetings/conferences and/or when group meals are covered by one individual on a corporate credit card. This should be reflected in expense policies.
 - If an individual receives a non-taxable travel allowance, they should be required to keep a travel log.

Appendix: Detailed Recommendations

1. Require municipalities to post expenses online

The Committee acknowledges that thirteen municipalities are currently posting expenses online in some form and several are in the process of developing reporting space online. The purpose of this recommendation is to bring consistency so that all municipalities are reporting expenses online.

JMAT mandate: This recommendation fulfills the committee's mandate to make recommendations that would "increase transparency of local government staff and elected officials' expenses to the public".

JMAT's recommendation is to: amend the MGA to require online reporting of travel, meal and professional development expenses of the CAO and elected officials. Specifically:

- Each expense must be accompanied by an explanation of the business purpose;
- Expenses must be posted to each municipalities web site, updated at least every three months (quarterly basis);
- Expenses must be posted going forward from the date that legislative changes are proclaimed;
- A record of expenses must be maintained online, to include at a minimum the current and prior term of council;
- Amend MGA to require use of a standard expense reporting form. The reporting form is to be used online to report expenses to the public. Form to be included in FRAM regulations.

JMAT is not recommending that the municipalities be required through the MGA to post their corporate hospitality expenses. Although most JMAT members agreed that it may be a best practice to post these types of expenses, the committee did not want to add another element to municipal corporate reporting requirements.

2. Strengthen expense policies and practices

Currently almost all municipalities in Nova Scotia have an expense policy. The purpose of this amendment is to make adoption of an expense policy a requirement and to bring consistency to the basic content. Municipalities will have the discretion to add more detail or not to their expense policies.

The Committee also felt it was important that all expense policies contain provisions to address expensing of alcohol, credit card use and signing authorities.

JMAT mandate: This recommendation fulfills the committee's mandate to "strengthen local government expense policies".

JMAT's recommendation is to:

- Amend the MGA to require municipalities to adopt an expense policy. The MGA will outline minimum contents which will include:

- alcohol not be permitted to be expensed by an individual;
- a corporate credit card policy; and
- signing authorities.
- o Amend the MGA to require municipalities to have a hospitality policy. Purchase of alcohol should be permitted only at the corporate level and must be purchased pursuant to a hospitality policy.
- o Amend the MGA to require that by no later than January 31st following a general election, Council formally review both the expense and hospitality policies and by motion of Council, adopt or amend both policies.
- o The MGA be amended to require the municipality to file by September 30th of each year, a summary report of CAO and elected officials' travel, meals and professional development expenses. Regulations, specifically FRAM (Financial Reporting Accounting Manual), be amended to require that this report be signed off by the municipality's auditor.
- o JMAT recommends that DMA and UNSM make expense training part of standard orientation for new municipal councilors.

3. Require a code of conduct and a complaint process

Many municipalities in Nova Scotia have a code of conduct. The Committee recommends that it be required by the MGA for all municipalities have a code of conduct. The Committee agreed that it is important that the code of conduct include penalty provisions and that a process be developed to handle complaints of code of conduct violations. However, the Committee felt it was out of scope to develop details around how a complaint process would be structured. The specific recommendation from the Committee is to:

- o Amend MGA to require all municipalities to have a code of conduct for elected officials, include minimum content and consequences if breached. Compliance with the expense policy would be part of the code of conduct. Code of conduct should comment on when the code applies to elected officials.
- o Develop a formal process for municipal council and staff to report complaints.

JMAT mandate: This recommendation fulfills the Committee's mandate to "Ensure that mechanisms are in place to support transparency and accountability to the public".

4. Strengthen municipal audits and audit committees

Municipalities are required by the MGA to have their annual financial statements audited by a designated municipal auditor. Municipalities are also required via section 44 of the MGA to have an audit committee. However, the MGA does not state any specifics around membership. In many municipalities, membership of the audit committee is all of council; there are no independent members.

JMAT's recommendation is to:

- o Amend the MGA to require that a position be created for at least one independent person on municipal audit committees and require municipalities to advertise any vacant position.
- o Amend the MGA to require the Audit Committee to meet at least twice a year.
- o As a best practice, municipalities should provide training to the audit committee, referencing section 44 of the MGA.

- Regulations (FRAM) be amended to identify issue areas that must be included in content of municipal auditor management letters. DMA to work with AMANS to develop minimum content requirements.

JMAT mandate: This recommendation fulfills the committee’s mandate to “improve audit function on staff and elected officials’ expenses” and the committee objective to “recommend improve language to strengthen the role of the audit committee.”

5. Clarify the role of DMA

JMAT discussed the need for third party oversight with relation to municipal staff and elected expenses. DMA’s role (what it is now, what it should be) in relation to municipal compliance with the MGA came forward as an issue during this discussion.

JMAT’s recommendation is:

- DMA should review and clarify its role in relation to municipalities complying with the MGA, and make the review public.
- DMA should consider development of a standard risk assessment tool to support municipalities internal control review, along with a standard letter format.

6. Other JMAT recommendations

CAO Performance Management:

JMAT discussed the importance of the role of the CAO in leading municipal administration in all areas. Strong leadership is especially important around expense management.

Municipalities should support strong leadership. To this end, JMAT recommends:

- As a best practice, council conduct CAO performance management.
- Include as a Governance Indicator, whether Councils are performing CAO performance appraisals on an annual basis.

JMAT mandate: This recommendation fulfills the Committee’s mandate to “Ensure that mechanisms are in place to support transparency and accountability to the public”.

In the process of developing their own recommendations, JMAT reviewed over sixty prior recommendations that came from various sources and reports. Most of the best practice recommendations below stemmed from this review process.

Best practices, management of council/CAO expenses:

- Expenses for a spouse/partner should not be permitted.
- Use a standard expense claim form. Municipalities use claim forms internally to process expense claims. JMAT has developed a standard claim form as a resource for municipalities.

Best practices, internal controls for expenses of council/CAO:

- Adopt the use of per diems as a standard practice as opposed to requiring receipts.
- Adopt the following practices with respect to internal controls for expense reimbursement and reporting:
 - All credit card charges should be accompanied by detailed receipts. This should be incorporated into expense policies.

- Meal expenses (via per diems or receipts) should not be claimed when meals are provided at meetings/conferences and/or when group meals are covered by one individual on a corporate credit card. This should be reflected in expense policies.
- If an individual receives a non-taxable local travel allowance, they should be required to keep a travel log.

Appendix: Visual Summary of Recommendations

