

To: ONE Joint Investment Board
From: Judy Dezell, Co-President/Co-CEO, ONE Investment
Date: February 28, 2024
Re: ONE JIB Remuneration – Municipal Treasurers
Report: ONE JIB 2024-001

1. RECOMMENDATIONS

It is recommended that the Board:

1. Receive the report.

2. SUMMARY

The ONE Investment Board received a request from ONE JIB, following its September 6, 2023 meeting, to amend the ONE JIB Remuneration Policy allowing for municipal treasurers to accept remuneration subject to the member complying with all relevant requirements of the member's municipality.

ONE Investment looked at municipal employee codes of conduct, CPA Ontario's CPA Code of Professional Conduct as well as sought input from legal counsel and ONE JIB's Integrity Commissioner in bringing forward changes to the ONE JIB Remuneration Policy that allows for municipalities to receive remuneration for municipal treasurers that sit on ONE JIB.

3. BACKGROUND

The ONE JIB is a skills-based governance board

The *Municipal Act* (the Act) requires municipalities that want to invest under the prudent investor regime to either create an investment board or join a joint investment board that is responsible for the control and management of monies not required immediately. ONE JIB is the only joint investment board in Ontario. It currently has responsibility for Investment Plans for 11 Participating Municipalities.

ONE Investment Board asked its Audit Committee to review ONE JIB remuneration for Municipal Treasurers

At its October 13, 2023 meeting the ONE Investment Board considered a motion it received from ONE JIB's meeting of September 6, 2023:

THAT the Board request the ONE Investment Board to consider remuneration for municipal members of ONE JIB commensurate with other members of ONE JIB,

subject to the member complying with all relevant requirements of the member's municipality.

The ONE Investment Board asked its Audit Committee to review the ONE JIB Remuneration Policy and consider remuneration for municipal treasurers who sit on ONE JIB.

The ONE JIB Remuneration Policy excluded Municipal Treasurers

Since inception of ONE JIB in 2020, the ONE JIB Remuneration Policy excluded Municipal Treasurers from any remuneration. The Municipal Treasurers were compensated for out-of-pocket expenses like travel, meals and accommodation when doing ONE JIB business. The rationale for this is that it is common practice to exclude municipal staff from remuneration as it is viewed as part of their work with the municipality that employs them. ONE JIB is a skills-based board where the perspective of municipal finance is a valued skill. Municipal Treasurers provide the municipal finance perspective not just of the municipality that employs them, but the sector more broadly, to ONE JIB's discussions. It is on that basis that a request to reconsider the Policy was made.

4. ANALYSIS

Five reasons were given to reconsider remuneration for Municipal Treasurers

- (1) The original intent to exclude Municipal Treasurers from payment was based on the notion that many municipalities have policies that do not allow staff to accept payment from other sources while working as a full-time employee. This type of policy does not exist for those Municipal Treasurers currently on ONE JIB. Further, they are encouraged to participate on Boards as part of professional development.
- (2) As Board members, the Municipal Treasurers are responsible for preparing for each meeting in advance to be able to contribute effectively. Many agendas are more than 500 pages in length. Anecdotally, it is understood that the Municipal Treasurers typically spend personal time on evenings and weekend undertaking this review since their work schedules are taken up with work for their municipalities.
- (3) The Municipal Treasurers have the same accountability and liability as the paid Board members. Although there is liability insurance in place, the Municipal Treasurers are still personally liable to the same degree as paid members.
- (4) The Municipal Treasurers bring a different, but equally important, perspective to the discussion that helps frame the 'municipal context' for the institutional investors on the Board who may not totally understand the nuances of municipal governance.
- (5) Future Municipal Treasurer members may be resistant to join the Board in the absence of compensation. If these were paid positions, there is a greater likelihood that ONE JIB would be able to attract representation from highly experienced Municipal Treasurers who would like to provide input into the management of the Participating Municipalities' invested funds. There would be greater confidence to transfer investments into the hands of ONE JIB.

ONE Investment's Audit Committee considered six factors when looking at the issue of municipal treasurer compensation

Municipal employee code of conduct

There is a mixed result in speaking with several municipalities as well as scanning available municipal employee code of conducts on the internet. Some municipalities prohibit municipal staff from accepting compensation, while others either do not have a policy or provide limitations around what are considered outside activities.

The following is typically the common language for municipalities that prohibit outside activities:

Employees shall not engage in business dealings, or employment with any other organization, that interfere with performance of their duties, or from which they derive personal gain by virtue of their employment with the Town.

In the case of those allowing outside activities, the following reflects common criteria for engagement in outside activities:

Outside activities, whether consisting of employment for profit or participation in nonprofit activities, are generally permitted subject to the following conditions:

- the outside activities must not occur during scheduled work time and must occur wholly in the employee's personal time;*
- there must be no perceived conflict or conflict of interest with the employee's official duties;*
- there must be no perceived adverse effect on the community or the ability of the employee or other staff to perform their duties and functions;*
- any external advertisement by any employee will not illustrate their employment with the Town if such advertisement is for personal gain or for any commercial or political purposes;*
- outside activities must not restrict the ability to be on call, or to work irregular hours if irregular hours are a requirement of the position; and,*
- if the outside activity is a business or paid employment or if it consists of an involvement with an organization that has business dealings with the Town, notification of the outside activity must be given to the immediate supervisor of the employee and will be reviewed with Human Resources and the Corporate Management Team.*

It is by virtue of the office of Municipal Treasurer that the Treasurers sit on ONE JIB. It would be difficult to satisfy the requirement of no perceived conflict or conflict of interest with the employee's official duties as stipulated in the policies that permit outside activities.

ONE JIB meetings occur during regular business hours

While preparation for ONE JIB meetings by the Municipal Treasurers occurs on what is effectively personal time, the meetings occur during regular business hours which limits the ability of the Municipal Treasurers to undertake their municipal duties at that time. ONE JIB typically has four regular meetings per year with additional special meetings added. In 2023, there were three special meetings for education and training purposes for ONE JIB lasting about two to three hours each as well as four regular business meetings lasting an average of four to five hours.

Municipal Treasurers have the same fiduciary responsibilities as other members of ONE JIB

Municipal Treasurer representatives are fiduciaries and have the same responsibilities and obligations as the other members of ONE JIB, and they must look to the interests of all of ONE JIB's stakeholders and not just the interests of their own municipalities. Further, as a skills-based board ONE JIB looks to the Municipal Treasurers for perspectives on municipal finance – this is invaluable insight for ONE JIB as it makes investment decisions for Participating Municipalities.

ONE Investment legal counsel advises that there are no barriers to compensating municipal members of ONE JIB

Legal counsel advised as follows:

Under the provisions of the *Municipal Act*, ONE JIB is a local board and a municipal service board. Under the provisions of the Regulation, ONE JIB is a Joint Investment Board.

ONE JIB was established as a joint municipal service board under section 202 of the Act. Under paragraph 4 of subsection 196 (1) of the Act, a municipality that establishes a municipal service board may provide for the “term of office and remuneration of board members” (under subsection 202 (4) of the Act this power applies to a joint municipal service board). Section 238 of the Act provides that a municipality may pay any part of the remuneration and expenses of the members of any local board of the municipality and subsection 283 (3) provides that a local board may pay remuneration to, or expenses incurred by its members “to the extent that the municipality is able to do so”. It is worth noting that subsection 284 (3) of the Act provides that if, in any year, anybody, including a local board, pays remuneration or expenses to one of its members who was appointed by a municipality, the body shall, on or before January 31 in the following year provide to the municipality an itemized statement of the remuneration and expenses paid for the year.

Under the Regulation, no officers, employees, or members of council of an investing municipality can be appointed as a member of a Joint Investment Board except for the treasurer of such a municipality. However, the Regulation restricts the number of such Municipal Treasurers who can sit on a Joint Investment Board to 25% of its members. Although there is a restriction on the number of Municipal Treasurers of investing municipalities that can sit on the board of ONE JIB, there is no restriction on the compensation that can be paid to such Municipal Treasurers.

ONE JIB's Integrity Commissioner advises that the current remuneration policy appears unfair

ONE JIB's Integrity Commissioner has advised as follows:

The ONE JIB Remuneration Policy appears inequitable and unfair to the Municipal Treasurer representatives. The Municipal Treasurer representatives indicate that some municipalities have policies that staff representatives are not allowed to receive remuneration or compensation for their service to external boards, committees or bodies. Although there may be such policies in some municipalities, the policies that I am more familiar with are those that preclude municipal staff from accepting compensation from such appointments in their *personal* capacity. Local governments appear very willing to accept payment for their staff's service to external boards, committees and other bodies, and the policies require such compensation to be directed to the municipality in recognition that the staff is giving up their "municipal work" to provide services to the external entities. This is somewhat akin to the policy of most government workers that they will be allowed to be absent from work to attend jury duty provided that the stipend paid to the worker is turned over to the municipality.

The issue is one of respect and equal treatment. Even if a municipality has a policy that its staff representative could not accept compensation for their service to the Board, all that the member would have to do is provide notice that he or she needed to decline the payment. I see nothing inappropriate in the Board having a remuneration policy that treats all members equally and on the same footing, even if there is a municipal policy that might prohibit a board member from receiving remuneration.

The CPA Ontario Code of Conduct was reviewed

Many Municipal Treasurers maintain the CPA designation which includes consideration of the CPA Code of Professional Conduct.

The fundamental principles governing conduct of CPA include:

- Professional Behaviour
Chartered Professional Accountants conduct themselves at all times in a manner which will maintain the good reputation of the profession and serve the public interest.
- Integrity and Due Care
Chartered Professional Accountants perform professional services with integrity and due care.
- Objectivity
Chartered Professional Accountants do not allow their professional or business judgment to be compromised by bias, **conflict of interest** or the undue influence of others.

- Professional Competence
Chartered Professional Accountants maintain their professional skills and competence by keeping informed of, and complying with, developments in their area of professional service
- Confidentiality
Chartered Professional Accountants protect confidential information acquired as a result of professional, employment and business relationships and do not disclose it without proper and specific authority, nor do they exploit such information for their personal advantage or the advantage of a third party

Most relevant to this discussion is the expectation of maintaining objectivity by avoiding conflicts of interest. This is consistent with municipal employee codes of conduct that permit outside activities.

Staff completed an environmental scan of similar boards

ONE staff has benchmarked against five investment focused committees and boards for remuneration purposes since Fall of 2020¹. None of the boards or committees benchmarked compensate the treasurers that sit on the committee or board. In the case of the Investment Management Corporation of Ontario (IMCO) this is not applicable. In each municipal case, the board or committee is focused solely on that municipality's investments. This is unlike ONE JIB, which is responsible for the investments of 11 different Participating Municipalities.

Staff also looked more broadly within the municipal sector and identified the Municipal Property Assessment Corporation (MPAC) as a board that is, in part, comprised of active municipal staff. MPAC has the responsibility for the delivery of property assessment services in Ontario which is the base for calculating property tax bills. All municipalities in Ontario are members of MPAC as per the *Municipal Property Assessment Corporation Act, 1997*. The MPAC Board has 13 members: seven municipal representatives, four property taxpayer representatives, and two provincial government representatives. Section 13 of MPAC's Corporate By-law states:

13. Remuneration

Unless prohibited by law, a Director who is not a municipal officer or employee or a public servant (within the meaning of Part III of the Public Service of Ontario Act, 2006) shall be paid such remuneration as the Board may from time to time determine, including as set out in the Board's prevailing Remuneration and Expense Policy, Directors shall be entitled to be reimbursed for all reasonable expenses incurred in the course of performing their duties. In the case of a Director who is a municipal officer or employee or a public servant, the Corporation shall, unless prohibited by law, compensate (i) the municipality, where the individual is a municipal representative and (ii) the employer of the individual where such person is a public

¹ For remuneration benchmarking, ONE Investment looks at the total compensation package paid to Board members that sit on the Cities of Barrie, Ottawa and Toronto Investment Boards as well as City of Edmonton's Investment Committee and IMCO's Investment Board.

servant, an amount of money equal to the remuneration that a Director receives for the time in which such Director was engaged in performance of Board duties with the Corporation.

A flexible policy would respect municipal policies on municipal staff remuneration

It's important to recognize that the Municipal Treasurer representatives are fiduciaries and have the same responsibilities and obligations as do the other members of ONE JIB, and they must look to the interests of all of ONE JIB's stakeholders and not just the interests of their own municipalities. Further, it makes sense to recognize the impact of the role on their duties in the municipality that employs them. The ONE JIB Remuneration Policy, attached to this report, was amended by the ONE Investment Board at its December 15, 2023 meeting.

5. CONCLUSION

ONE Investment recognizes that ONE JIB is quickly emerging as a credible investment body for municipalities wishing to access the prudent investor regime. Further, ONE Investment believes a good mix of skills on the board and competitive remuneration helps ensure its success. Compensation should include equal treatment of all members.

ATTACHMENTS

Attachment 1: ONE JIB Remuneration Policy

Drafted by: Judy Dezell, Co-President/CEO, ONE Investment

Approved by: Judy Dezell and Donna Herridge, Co-Presidents/CEO, ONE Investment