

## **Kaska Dena National Government – Government Finance Act – Summary**

### **What is the Government Finance Act?**

The purpose of the Government Finance Act (“the Act”) is to provide for the conduct of Kaska Dena National Government (“National Government”) powers in accordance with the Kaska National Constitution, the administration, operation and internal financial management of the National Government, and provide for the management and administration of rights and benefits which are realized pursuant to operations of the National Government. The Government Finance Act is based in the following principles:

“The Kaska Dena people expect the financial management and administration of the Kaska Dena Nation and each Kaska First Nation to be prudent and accountable in such a manner as to meet the needs of Kaska Dena citizens for transparency, disclosure and redress. In providing accountability, the governing bodies of the Kaska Dena shall ensure that Kaska Dena people feel comfortable and safe in asking questions in order to better understand Kaska Dena finances and empower grass roots citizens to contribute and be a part of the process for garnering input and consultation in financial matters. Further the Kaska Dena governing bodies shall provide accurate, timely and comprehensive information to Kaska Dena citizens at community meetings convened for such purposes, and use other such community-based initiatives that provide for grass roots and community empowerment.”

### **Finance Committee**

The Constitution establishes the Finance Committee specified to consist of one representative of each Kaska First Nation and a Chairperson mandated with the Finance Portfolio, appointed by the Kaska Dena National Council (“the Council”). The Finance Committee shall act honestly and with integrity, in an efficient, effective and ethical manner.

The Finance Committee, in the exercise of its powers, is subject to the discretion of the Council. It is responsible for the oversight, periodic review and advice to the Council on the administration of the financial affairs of the National Government. This may include general and specific matters such as making recommendations of finance regulations and accounting policies and practices for the National Government and the management and control of revenue and assets of the National Government.

The Council may refer or assign any other matter relating to financial administration of the National Government to the Finance Committee. It may also make recommendations to the Council for the issuance of directives that shall be followed by senior managers. The Finance Committee may develop financial procedures to be documented in Policy Manuals or be proposed for adoption as Regulations for matters including the effective coordination of administrative functions and services, the collection, management, administration and accounting of National Government Funds and Revenues, and the keeping of records pertaining to National Government property.

### **Department of Finance**

The Department of Finance (“the Department”) will be established by the Finance Chairperson and the Council. It will be responsible for managing and carrying out the day-to-day financial affairs of the National Government and its institutions. The Department is responsible for the management and administration of the National Government funds, the supervision of the revenues and expenditures of

the National Government and all matters relating to implementation of the financial management policies and regulations of the National Government.

The Finance Manager will be the senior official within the department. They will ensure the proper collection and disposition of public money, establish the method by which the accounts of the National Government are to be kept, maintain the accounts of the National Government, evaluate and make recommendations to improve the accounting and financial management systems of the National Government, ensure the preparation of any financial statements and reports required, ensure that National Government departments, programs, institutions or corporations receiving National Government funds provide the Finance Department proper documents and details of the funding received and make recommendations to the Finance Committee and Council on all matters of a financial nature.

The Finance Manager will ensure that all National Government departments, programs, institutions or corporations conduct a monthly review of its financial position and prepare and complete annual audits. They will determine whether money paid from any revenue fund has been or is being applied for the purpose for which it was authorized to be paid. The Finance Manager will examine the operations of any National Government department, program, institution or corporation that does not adhere to this Act. They will make recommendations to the Finance Committee and the Council on the remedial action that may be taken by the Finance Committee and the Council to fix the situation.

### **Council May Manage Monies**

In order to carry out the provisions of this Act, the Council may secure professional advice, establish legal entities, enter into agreements or contracts for the management and investment of National Government monies and distribute or expend any income from the investment of National Government monies in a manner and on terms approved by the Assembly.

### **Financial Statements of Public Accounts and Auditors**

The Finance Manager will prepare the financial statements and public accounts for the National Government for each fiscal year in accordance with the National Government accounting policies adopted by the Council. The Act provides what is required to complete financial statements and reports of public accounts and all areas of the National Government. This is to ensure the proper management of National Government finances.

The Council will appoint an auditor qualified as a chartered accountant, a certified general accountant, or a certified management accountant to audit and report upon the financial statements and public accounts of the National Government. An Independent Auditor may also be appointed to review the financial management practices of the National Government.

### **Revenue – Funds and Accounts**

The Act provides for the Revenue and Expenditures of the National Government. The Council may specify the formation of Funds or Accounts for various purposes. These funds may include Operating Funds, Trusts, Economic Development Funds, Revolving Funds and Transition Funds. The Council may establish a Consolidated Revenue Fund incorporating those Funds and adopt regulations for the accounting of public revenue and assets including Fund Accounts.

Fund Accounts will be established on terms of a financial management or investment plan that has been approved by the Council. The Act provides for the handling and management of Trust Funds and Revolving Funds. It also implements controls for the Collection and Deposit of Public Money and refunding any money received by the National Government that is mistakenly paid or collected for any purpose that is not fulfilled. Under the Act, the Council may direct the Finance Manager to Write-off of Assets and Un-collectable Debts to the National Government.

### **Remissions**

If the Council considers it is in the public interest to do so where great public inconvenience, injustice or hardship to a person has occurred, the Council may authorize the remission of any tax, royalty, fee or other sum that is paid or payable to the National Government or any forfeiture, fine or pecuniary penalty authorized to be imposed by an enactment, even though all or part of it is payable to another person.

A remission may be total or partial, conditional or unconditional, and may be granted before, during or after the course of any proceeding for the recovery of the money and either before or after any payment of it has been made or has been enforced.

The Finance Manager will ensure that an Officer of the National Government will take steps to locate any person in debt to the National Government and to start proceedings to collect on such debts. The Officer will secure payment by collecting on funds owing by such a person from where the person may be employed or a place that may owe funds to the person. The Council may make regulations requiring a person who owes money to the National Government to pay interest on the money at a rate set out in the regulations.

### **Expenditures – Annual Budgets**

An Annual Budget will be prepared for and approved by the Council. It will contain estimates of revenues and expenditures by department, program, institution or corporation and for goods and services to be purchased in that fiscal year. The Act sets out the requirements for budgets of the National Government and policy and/or regulation developed by the Finance Committee and approved by the Council will specify the process to be followed. A summary of the Annual Budget will be made available for inspection to the Kaska Dena National Citizens. The Finance Committee may, by directive from Council at a duly called Council meeting, control or limit payments from the approved Annual Budget.

The Finance Committee may recommend an amended Annual Budget. The Council may approve the amended Annual Budget but must not approve any current-year expenditures or liabilities beyond the amount of revenue for the current year and any accumulated revenue surplus of prior years in its approved Annual Budget.

### **Payments**

In order for a payment to be made from any Account or Fund in which monies are held to the credit of the National Government, a requisition for payment must be made under the authority of and in accordance with this Act. Money must not be paid out of a Trust Fund except in accordance with the enactment or the trust instrument or other authority by which money is held in trust.

The Council may in the case of emergency authorize the payment of money from the Operating Fund that is urgently required for the public good even though it has not been identified in the approved Annual Budget. If this is done the Council must approve an amended Annual Budget which includes the payment authorized.

### **Contracts**

Within limits established by regulation, the Finance Manager, authorized by Council, may enter into contracts in accordance with existing policy or regulation subject to such terms and conditions as the Finance Committee considers necessary.

A contract shall not be entered into and is not enforceable against the National Government unless entered into by Council, the Finance Manager or a Senior Manager authorized to do so. The money that becomes due under any contract is not payable unless the payment to be made is in the fiscal year in which the payment is authorized.

The Act also establishes procedures for making Advances to pay expenses, keeping Record of Commitments for public expenditures and projects and procedures to be followed when reporting the Public Accounts of the National Government to the Council and Kaska Dena National Assembly.

### **Asset Management, Power to Invest & Loans**

The Finance Committee shall ensure the establishment and implementation of a system of asset management for all physical assets of the National Government. If money is in a Fund, other than a Trust Fund, and is not immediately required for payments, the Council may establish regulations for its investment. No loan of Public Monies shall be made.

### **Public Property**

No disposition or loan of Public Property can be made except as authorized by a Directive of the Finance Committee. They may issue Directives authorizing and governing the acquisition of property by the National Government, the custody, control and disposal of Public Property and the deletion of Public Property from the inventory of the National Government. If a service or the use of Public Property is provided by the National Government, the Finance Committee may set a fee or charge to for the service or use or the property.

### **Liabilities – Authority to Borrow and Debt Management and Recovery Plan**

The Act authorizes that through regulation, money can be borrowed or security issued by the National Government. The money borrowed must not be used for any purpose other than that stated in the regulation, unless there remains an unexpended balance after expenditures, then it will be used by the National Government.

In the event of the National Government contracting a debt the Finance Manager must have prepared a Debt Management plan to be approved as a part of the Annual Budget. In the event of a deficit of the Operating Fund, the Finance Manager must have prepared a Recovery Plan to be approved as a part of the Annual Budget.

### **Misconduct – Failure to Account for Public Money**

If the Council has reason to believe that a person has received Public Money intended to be provided to the National Government, has not duly accounted for it or not applied it to the specific purpose intended, the Council will direct the Finance Manager to prepare a written notice requiring any such person to return, account for, or apply it to its specific purpose and provide proof indicating that the person has applied the money as was intended.

A Council member who votes for a National Government law or regulation authorizing the expenditure, investment or other use of monies contrary to the Kaska Dena Constitution is personally liable to the National Government for the amount, unless the Council member relied on information provided by an employee and the employee was guilty of dishonesty, gross negligence or malicious or willful misconduct in relation to the provision of information.

A written complaint may be filed with Council if a Kaska Citizen believes that a disbursement, expenditure, liability or other transaction is not authorized by or under the Kaska Dena Constitution or National Government law or there has been a theft, misuse, misappropriation, or irregularity in the Funds, Accounts, assets, liabilities and financial obligations of the National Government or its institutions or corporations. Upon receipt of a complaint from a Kaska Citizen, Council will direct the Finance Committee to review the complaint and submit a report concerning the matters raised and after review of the report, send a written response to the Citizen filing the complaint stating action taken.

If a person fails to comply with a notice served on them to account for money, the Finance Manager shall prepare a Statement of Account between that person and the National Government, showing the amount of money not duly returned, accounted for or applied, and charging interest on it. The Council may sue on behalf of the National Government to enforce a forfeiture imposed by any law relating to Public Money in any court.

### **Loss Through Misconduct**

If Public Money is lost or is not collected through the misconduct, neglect of duty or negligence of a person responsible for handling Public Money, the person is liable and it may be recovered from him or her as a debt due to the National Government.

The Council may adopt regulations providing for the recovery from a senior manager of the amount of any award or reasonable settlement in respect of damages for death, injury or private property damage as a result of the negligence or willful misconduct of the senior manager in the performance of their duties or in the operation, care or custody of Public Monies or Property.

The Act provides for the evidence required to deal with the recovery of Public Money. If a person refuses or neglects to deliver Public Money or an account, the Finance Manager may direct delivery within a stated time. A person who does not comply with a direction under this section commits an offence.

### **Financial Public Records**

Financial Public Records include all records respecting Public Monies that are kept or used by, received or possessed by persons responsible for the collection, management or disbursement of Public Monies or the accounting for it. All Financial Public Records belong to the National Government. The Council

may make regulations authorizing the archiving and destruction of any Financial Public Records. Any person who destroys Financial Public Records, except as authorized by the regulations, commits an offence.

### **Offence**

A senior manager commits an offence when in connection with the performance of their duties, they willfully make or sign a false document or have knowledge of the violation of any enactment that provides for the expenditure or collection of Public Monies or of a fraud committed by any person against the National Government and fail to immediately report it in writing to the Finance Manager.

### **Defenses to Action for Recovery of Public Money**

If Public Monies are paid to a person by the National Government in excess of the authority of an enactment, and a right is asserted by to recover the payments, the person against whom the right is asserted may rely on any matter of fact or law which would constitute a defense in a proceeding brought to recover the payment as if it had been made under a mistake. However, it does not enable a person to rely on a defense that a payment made was made under a mistake of law and does not impair the right of the National Government to recover the money.

### **Penalty**

A person who commits an offence under this Act is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding six months or both.

### **Other Remedies**

Nothing in this Act affects or abrogates the right of the National Government or any other person to institute any civil or criminal proceedings against a person contravening this Act, against the person's sureties or against any other person.