

KASKA DENA NATIONAL GOVERNMENT

“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.”

GOVERNMENT FINANCE ACT

INTRODUCTION

Short Title

1. This Act may be cited as the Government Finance Act.

Commencement

2. This Act shall come into force on the date the Constitution is ratified and comes into force.

Definitions

3. In this Act

“Account or Funds in which monies are held” means an account held by the Kaska Dena National Government in a bank, financial institution, or investment institution as established for a specific purpose by the Council;

“Act” means enactment adopted by the Council containing rules intended to have the force of law, and includes the Constitution and this Act;

“Affidavit” means a written statement sworn in the presence of someone authorized to administer an oath;

“Annual Budget” means a plan containing estimates of revenue and expenditures for a specific fiscal year as approved by the Council;

“Assembly” means the Kaska Dena National Assembly having overall responsibility for government powers and responsibilities as described in Section 11 of the Constitution;

“Auditor” means a chartered accountant, certified general accountant, or a certified management accountant appointed by the Council to examine and report on the financial status and public accounts;

“Citizen” means a person as defined by the criteria of Section 5 of the Constitution;

“Consolidated Revenue Fund” means an account or fund that combines all individual specific funds held by the Kaska Dena National Government in accordance with accepted accounting standards in Canada;

“Constitution” means the Constitution of the Kaska Dena Nation;

“Council” means the Kaska Dena National Council as described in Section 12 of the Constitution;

“Debt Management Plan” means a part of the Annual Budget that contains the schedule for the repayment of any debt contracted by the Kaska Dena National Government including principal and interest;

“Department of Finance” means a department of the Kaska Dena National Government established under this Act specifically to provide the day-to-day management and administration of Kaska Dena National Government monies;

“Directives” means specific written instructions from the Council or the Finance committee to the Finance Department, Finance Manager or other officer;

“Emergency” means a sudden and unexpected turn of events calling for immediate action;

“Executive” means the Kaska Dena National Executive as described in section 15 of the Constitution;

“Finance Committee” means the committee described in Section 26 of the Constitution;

“Finance Department” means Department of Finance;

“Finance Manager” means the senior member of the Finance Department as appointed by the Executive;

“Financial Agreement” means any funding arrangement entered into between the Kaska Dena National Government and Canada, or British Columbia, or Yukon or Northwest Territories or their agencies, or any other entity or corporation;

“Financial Accounts” means reports prepared by the Finance Department in accordance with accepted national standards relative to specific Funds or Accounts;

“Financial Public Records” means those Financial Accounts published in accordance with Kaska Dena National Government law or regulation and meeting accepted national standards for such records;

“Fiscal Year” means a 12 month period as specified by this Act for which Financial Accounts, Financial Public Records, Annual Budgets and Audits are prepared;

“Fund Accounts” means accounts established to hold monies to be used for a specified purpose or purposes and which may be governed by regulation;

“Independent Auditor” means an auditor appointed specifically to review and comment on Kaska Dena National Government internal financial management practices;

Kaska First Nation means those Bands as defined under the *Indian Act*, R.S.C. 1985, c. I-5 which include: Dease River Band Council; Kwadacha First Nation; Liard First Nation (including Daylu Dena Council); and Ross River Dena Council.

“Law” means any Act or Regulation signed by the Executive, including any amendment thereto;

“Management Letter” means a letter from the Auditor to the Council in conjunction with the Audit, that comments on and makes recommendations regarding the financial policies or practices being employed by the Kaska Dena National Government;

“Officer” means a person designated to represent the Kaska Dena National Government in a specific area or activity;

“Operating Fund” means that account or fund designated for the general operation of the Government;

“Operating Revenue Fund” means Operating Fund;

“Programs and Services Transfer Agreement” means any agreement involving transfer of responsibilities between Canada, Yukon, British Columbia, or the Northwest Territories, and the Kaska Dena National Government;

“Public Accounts” means Financial Public Records;

“Public Monies” means money held by the Kaska Dena National Government;

“Public Properties” means property held by the Kaska Dena National Government;

“Recovery Plan” means a part of the Annual Budget that contains a general estimate of the method and schedule for repayment of a deficit in the Operating Fund;

“Registry of Contracts” means a written listing of all contracts established in accordance with the Kaska Dena Good Governance Act;

“Regulation” means an enactment containing rules intended to have the force of law signed by the Executive under the authority of this or another Act.

“Revolving Fund” means an account or fund established for specific purposes in which as expenditures are made, refunds are expected in order to maintain a near balanced account to which regulations may apply;

“Statement of Account” means a formal written report regarding the specific status of a fund or account;

“Trust Funds” means accounts or funds established for a specific purpose, the use of which will be governed by regulation;

“Trust Monies” means monies held in Trust Funds;

“Un-collectable Debt” means an amount owed to the Kaska Dena National Government that is judged by the Auditor and approved by Council to be un-collectable;

“Write Off Assets” means a statement in the Public Accounts that a debt or other obligation owed to the Kaska Dena National Government cannot be realized or collected.

Interpretation

4. All Acts, Regulations and agreements referred to in this Act include any amendments made to them.
5. The words “our”, “ourselves”, “us” and “we”, where used in this Act, refer to the Kaska Dena National Government.
6. References to sections, subsections and paragraphs, unless otherwise stated, refer to sections, subsections and paragraphs in this Act.

Purpose

7. The purpose of this Act is to provide for
 - (a) the conduct of Kaska Dena National Government powers in accordance with Chapter 3 of our Constitution; and
 - (b) administration, operation and internal financial management of the Kaska Dena National Government, and
 - (c) management and administration of rights and benefits which are realized pursuant to operations of the Kaska National Government, and
 - (d) matters related to the foregoing.

ORGANIZATION AND ADMINISTRATION

Finance Committee

8. (1) Section 26 of the Constitution establishes the Finance Committee as a Committee specified to consist of one representative of each Kaska First Nation and a Chairperson mandated with the Finance Portfolio, appointed by the Council. The Finance Committee shall act honestly and with integrity, and in an efficient, effective and ethical manner when executing the provisions of this Act.
- (2) In accordance with section 26 of the Constitution, the Finance Committee shall be responsible for oversight, periodic review (at least quarterly), and advice to the Council on the administration of the financial affairs of the Kaska Dena National Government, including general and specific matters such as, but not limited to:
 - (a) recommendations of finance regulations, accounting policies and practices for the Kaska Dena National Government, including the form and content of public accounts;
 - (b) the financial management practices of the Kaska Dena National Government;
 - (c) the management of public money, public property and cash flow management;
 - (d) the management and control of revenue, disbursements and assets of the Kaska Dena National Government including the development of the budget and review of budget and finance statements; and,
 - (e) direction to perform audits of the Kaska Dena National Government and all Kaska owned institutions or corporations.
- (3) The Council may refer or assign any other matter relating to financial administration of the Kaska Dena National Government to the Finance Committee.
- (4) The Finance Committee may, to assist in the performance of its powers and duties under this any other enactment, make recommendations to the Council for the issuance of directives that shall be followed by senior managers
- (5) The Finance Committee, in conjunction with the Finance Manager and subject to any Kaska Dena National Council resolution, may develop

financial procedures to be documented in Policy Manuals or be proposed for adoption as Regulations in the following areas:

- (a) for the purpose of ensuring effective coordination of administrative functions and services for each department, program, institution or corporation of the Kaska Dena National Government, and between those respective departments or programs;
 - (b) for the establishment of general administrative standards, and the implementation of systems which measure and assess the performance of such departments referred to in (a) based on those standards;
 - (c) the collection, management, administration and accounting of Kaska Dena National Government Funds and Revenues consistent with this Act;
 - (d) the keeping of records pertaining to Kaska Dena National Government property;
 - (e) for any provision contemplated by this Act; and,
 - (f) for any other purpose necessary for the efficient administration of any service provided by a department or program of the Kaska Dena National Government.
- (6) The Finance Committee, in the exercise of its powers of oversight and advice under the procedures set out in this Act, is subject to the discretion of the Council. The Council may request or direct the Finance Committee to amend or revoke any activity that is deemed by the Council to be inconsistent with these procedures. In the event that the Finance Committee fails to amend or revoke such activities, the Council may by resolution at a duly convened meeting take steps to amend or revoke the activities of the Committee.

Department of Finance

9. (1) The Finance Chairperson and the Council shall establish a department to be called the Department of Finance which shall be responsible for managing and carrying out the day-to-day financial affairs of the Kaska Dena National Government and its institutions.
- (2) Without limiting the generality of subsection (1), the department is responsible for
- (a) management and administration of the Kaska Dena National Government funds;

- (b) supervision of the revenues and expenditures of the Kaska Dena National Government ;
 - (c) all matters relating to implementation of the financial management policies and regulations of the Kaska Dena National Government; and
 - (d) direction of the financial affairs of the Kaska Dena National Government that are not assigned by this or any other enactment to Finance Committee or any other person.
- (3) The Executive with the advice of the Finance Chairperson shall hire a Finance Manager who shall be the senior official within the department.
- (4) Subject to any direction and/or recommendation provided by the Finance Committee, the Finance Manager shall
- (a) ensure the proper collection, receipt, recording and disposition of public money under the responsibility of the National Government and ensure that proper authority exists for disbursement of public money;
 - (b) establish the method by which the accounts of the Kaska Dena National Government are to be kept and the method by which any senior manager or other person shall account for public money that comes into his or her hands;
 - (c) maintain the accounts of the Kaska Dena National Government;
 - (d) evaluate the accounting and financial management systems of the Kaska Dena National Government and, as necessary, recommend improvements to the Finance Committee or Council, implement improvements as directed and ensure utilization by all departments, programs, institutions and corporations as may be appropriate;
 - (e) ensure preparation of any financial statements and reports required by the Finance Chairperson, the Finance Committee or other public body, including but not limited to;
 - (i) monthly variance reports from all Kaska Dena National Government departments, programs, institutions and corporations;
 - (ii) a quarterly report for the Finance Committee and Council on all substantial or material variances in the budgets of Kaska Dena National Government departments, programs, institutions and corporations; and,
 - (iii) reports required by funding agencies,

- (f) perform other duties assigned to the Finance Manager by the Council, the Finance Committee or any other enactment.
 - (g) ensure that Kaska Dena National Government departments, programs, institutions or corporations receiving Kaska Dena National Government funds, provide the Finance Department with a copy of the funding documents and details of the funding received; and,
 - (h) make recommendations to the Finance Committee and Council on all matters of a financial nature.
- (5) The Finance Committee shall direct the Finance Manager to ensure that all Kaska Dena National Government departments, programs, institutions or corporations fulfill the following functions:
- (a) a monthly review of its financial position and the preparation of variance reports for the Council and Kaska Dena National Council on all substantial or material variances in the budgets;
 - (b) preparation and completion of annual audits;
 - (c) receipt and review of completed audits and steps taken to address any items contained in the Management Letter,
 - (d) recommendations to the Council on matters of a financial nature; and,
 - (e) attending to other matters relating to its financial affairs.
- (6) The Finance Manager shall have access at all times to all Kaska Dena National Government departments, programs, institutions and corporations and may;
- (a) require from any senior manager information and explanations necessary for the performance of his or her duties;
 - (b) on the direction of the Finance Committee or Council, require from any person who receives or is responsible for public money such information and explanations as may be necessary to enable the Finance Manager to determine whether money paid from any revenue fund has been or is being;
 - (i) applied for the purpose for which it was authorized to be paid, and
 - (ii) paid or dealt with in accordance with this or any other enactment.

- (7) In the event that a Kaska Dena National Government department, program, institution or corporation is not adhering to this Act and the financial administration system established under it, the Finance Manager shall examine the operations and make recommendations to the Finance Committee and the Council on the remedial action that may be taken by the Finance Committee and the Council respecting such entity.

Council May Manage Monies

10. In order to carry out the provisions of this Act, the Council may
 - (a) secure professional advice;
 - (b) establish legal entities;
 - (c) subject to section 28 and 33 enter into agreements or contracts for the management and investment of Kaska Dena National Government monies; and
 - (d) distribute or expend any income from the investment of Kaska Dena National Government, monies in a manner and on terms approved by the Assembly.

Financial Statements and Public Accounts

11. (1) The Finance Manager shall prepare the financial statements and public accounts for the Kaska Dena National Government for each fiscal year in accordance with the Kaska Dena National Government accounting policies adopted by the Council and shall transmit the statements and accounts to the Council no later than the 30th day of June, next following the end of the fiscal year to which the statements and accounts apply.
- (2) The financial statements shall take into account the standards generally accepted for governments in Canada, cost of preparation and simplicity of presentation and shall contain,
 - (a) a statement of the Kaska Dena National Government' accounting policies, as established by the Council;
 - (b) statements of the financial position of the Kaska Dena National Government as of the end of the fiscal year, the revenues and expenditures for that fiscal year and any changes to the financial position relative to the previous fiscal year;
 - (c) statements prepared in a form directed by the Council of

- (i) appropriations for the fiscal year compared to the actual expenditures and the amount unexpended for that fiscal year;
 - (ii) the debt, if any, guaranteed by the Kaska Dena National Government as at the end of the fiscal year as well as the percent of the amount available for loans constituted by the current debt;
 - (iii) other accounts and information that are necessary to show the financial position of the Kaska Dena National Government with respect to that fiscal year;
 - (iv) any assets, debts and obligations written off in that fiscal year;
 - (v) any debts and obligations extinguished in that fiscal year; and
 - (vi) any other financial information required by the Council to be included in the statements.
- (3) The Public Accounts must contain
- (a) the financial statement of the Kaska Dena National Government, as described in subsection (1);
 - (b) the report of the auditor appointed by the Council to review the financial statements including actions to be taken in regard to any concerns raised by the Auditor; and
 - (c) any other information required by the Council to be included in the accounts.
- (4) The Finance Chairperson and the Finance Manager shall prepare an annual report in conjunction with the audit separately listing the following for the National Gudesdeje and all staff, consultants, professionals, legal counsel and CEO's of all Kaska Dena National institutions or business entities:
- (i) the yearly amount of remuneration paid, including any amount specified as an allowed expense,
 - (ii) the total amount of payments made as reimbursement for expenses incurred by the individual as an allowance that is not reported under (i), and
 - (iii) the total amount of any benefit, including insurance policies for medical or dental services provided to the individual by the Kaska Dena National Government or any Kaska Dena National institution or business entity.
- (b) Kaska Dena corporations receiving funds from or on behalf of the Kaska Dena National Government are required to prepare a report

as outlined in 11(4)(a) (i)-(iii) for all Councils, staff, consultants and legal counsel.

Appointment of the Auditor

12. (1) The Council shall 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 Kaska Dena National Government.
- (2) The Council, upon the advice of the Finance Committee, may from time-to-time appoint an Independent Auditor to review the financial management practices of the Kaska Dena National Government.

Fiscal Year

13. The fiscal year of the Kaska Dena National Government shall be the period from April 1 in one year to March 31 of the following year.

REVENUE

Funds

14. (1) The Council may specify the formation of Funds or Accounts for various purposes as may be required from time-to-time. These funds may include, but are not limited to:
 - (a) Operating Fund;
 - (b) Trusts;
 - (c) Economic Development Fund;
 - (d) Revolving Funds; and,
 - (e) Transition Funds.
- (2) In addition the Council may establish a Consolidated Revenue Fund incorporating the Funds listed in 14(1) should reporting requirements so require.
- (3) The Council may adopt regulations for the accounting of public revenue and assets.

Establishment of Fund Accounts

15. (1) The Council may establish, in the name of the Kaska Dena National Government, Fund Accounts in financial institutions for the deposit of Public Monies or Trust Monies.
- (2) The Council may develop and adopt regulations and/or policies in regard to these Fund Accounts.
- (3) Fund Accounts shall be established on terms of a financial management or investment plan that has been approved by the Council and shall be limited to:
 - (a) banks listed in Schedule I of the *Bank Act*, S.C. 1991, c.B-1.01;
 - (b) financial institutions approved by the Council;
 - (c) other investment institutions as approved by the Council.

Trust Fund

16. (1) Trust monies shall be paid into and shall be maintained separately in specific Trust Funds established by the Finance Manager within the Trust Fund or the Consolidated Revenue Fund.
- (2) The Finance Manager shall record amounts received in trust and the reason why the money is being held in trust.

Revolving Funds

17. (1) The Council may, by order, authorize the Finance Manager to establish Revolving Funds for specific purposes.
- (2) All Revolving Funds shall be part of the Consolidated Revenue Fund if established.
- (3) A Revolving Fund shall be specific as to its purpose and shall include a dollar limit that shall not be exceeded without prior approval of the Council.
- (4) When a Revolving Fund has been established, the Finance Committee may issue Directives with respect to:
 - (a) the accounts and records to be kept;
 - (b) the method of charging and crediting;
 - (c) the method of valuing its inventory; and,
 - (d) any other matter relating to its operation and management.

- (5) Each Revolving Fund established shall be reported in the Public Accounts showing:
 - (a) the assets and liabilities; and,
 - (b) the summary of transactions.

Collection and Deposit of Money

- 18. (1) No person shall open or close an account for the receipt, deposit or transfer of Public Money or Trust Monies except as authorized by section 15.
- (2) Every person who collects or receives Public Monies shall pay or give all of it to the Finance Manager or deposit it to the credit of the Consolidated Revenue Fund in a Fund Account authorized by the Council.
- (3) The Finance Manager shall deposit all Public Monies that he or she receives to the credit of the appropriate Fund.
- (4) Every person who collects or receives Public Monies shall keep a record of the money received in such form and manner as the Finance Manager directs.
- (5) The Council may adopt regulations:
 - (a) authorizing payment from the Funds of a fee or commission to persons collecting, managing or accounting for Public Monies as remuneration for all services performed; and
 - (b) set the rates or levels of commission and establish the methods by which fees or commissions may be paid.

Refunds

- 19. Money received by the Kaska Dena National Government that is mistakenly paid or collected for any purpose that is not fulfilled shall be refunded from the appropriate Fund in part or in whole, as the circumstances require.

Write-off of Assets and Un-collectable Debts

- 20. (1) The Council may direct the Finance Manager to:
 - (a) write off all or part of a debt or obligation that it considers to be unrealizable or un-collectable; and

- (b) authorize specified persons to write off all or part of a debt or obligation to the Kaska Dena National Government that the authorized person considers to be un-collectable.
- (2) The write off of all or part of a debt or obligation under this section does not extinguish the right of the Kaska Dena National Government to collect the amount of the debt or obligation written off.
- (3) Every account written off shall be reported in the Public Accounts for that fiscal year in which the account is written off.

Remissions

- 21. (1) If the Council considers it is in the public interest to do so in a case or class of cases where great public inconvenience, great injustice or great hardship to a person has occurred or is likely to occur, the Council may, by order, authorize the remission of:
 - (a) any tax, royalty, fee or other sum that is paid or payable to the Kaska Dena National Government and that is imposed or authorized to be imposed by an enactment; or
 - (b) any forfeiture, fine or pecuniary penalty imposed or authorized to be imposed by an enactment, even though all or part of it is payable to another person.
- (2) A remission authorized under subsection (1) may be total or partial, conditional or unconditional, and a remission of an item referred to in paragraph (1)(a) 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 by process or execution.
- (3) If a condition of remission authorized under subsection (1) is not performed, the authorization of the remission has no effect and proceedings may be initiated or continued as if the remission had not been authorized.
- (4) Money required to be paid by the Kaska Dena National Government under this section may be paid out of the Operating Fund.
- (5) If an amount of not more than \$1 is owed to the Kaska Dena National Government, the debtor is entitled to a remission under this section.

- (6) Every remission, other than those made under subsection (5), shall be reported in the Public Accounts for the fiscal year in which the remission is made.
- (7) The Council shall direct the Finance Manager to ensure that an Officer of the Kaska Dena National Government takes steps to locate any person in debt to the Kaska Dena National Government and to start proceedings to collect on such debts. The Officer shall take such procedures to secure payment by collecting on funds owing by such a person from any department, program, institution or corporation where the person may be employed; or from any department, program, institution or corporation that may owe funds to the person.

Interest on overdue accounts

22. (1) The Council may make regulations requiring a person who owes or is liable to pay money to the Kaska Dena National Government pay interest on the money at a rate set out in the regulations.
- (2) A rate prescribed under subsection (1) may be general or specific and interest is recoverable as a debt due to the Kaska Dena National Government.
- (3) Regulations made under this section do not apply to any case where another enactment requires or authorizes the imposition of interest on money owed to the Kaska Dena National Government.

Council May Levy Fees and Charges

23. Without limiting the generality of section 10, the Council may levy and collect fees or other charges for the purpose of offsetting the costs or carrying out the provisions of section 10.

EXPENDITURES

Annual Budgets

24. (1) The Finance Chairperson shall cause an Annual Budget to be prepared at least 30 days in advance of each fiscal year and the Council shall approve in advance for each fiscal year an Annual Budget containing estimates of revenues and expenditures by department, program, institution or corporation and activity and for goods and services to be purchased in that

fiscal year. The details of timing and form of budgets as well as the preparation process shall be specified by policy and/or regulation to be developed by the Finance Committee and approved by the Council.

- (2) In order to complete 24(1) the Finance Manager shall ensure that at least the following items are contained in initial budgets by the appropriate officials of the Kaska Dena National Government:
 - (a) summary budget estimates;
 - (b) summary of budget expenditures;
 - (c) determination and listing of financial commitments;
 - (d) preparation of financial statements;
 - (e) listing of leases or charges for the provision of services or the use of facilities of the Kaska Dena National Government or rental of Kaska Dena National Government property;
 - (f) estimates of insurance purchases to cover of all Kaska property owned by Kaska Dena National Government departments, programs, institutions and corporations;
 - (g) revenues from issuance of licenses and leases;
 - (h) revenues from disposition of property; and
 - (i) procedures by which departments, programs, institutions and corporations shall manage and record financial information in conformity to the Act.
- (3) The Finance Committee and Council shall receive all annual budgets submitted by the departments, programs, institutions or corporations of the Kaska Dena National Government. The budgets will be reviewed and if deemed acceptable by the Finance Committee, will be presented to the Council.
- (4) A summary of the Annual Budget shall be made available for inspection to the Kaska Dena National Citizens during regular working hours and copies may be dispensed to the Citizens provided the Citizen gives reasonable notice to the Finance Manager.
- (5) All institutions or corporations in receipt of funds from the Kaska Dena National Government shall present their annual budgets, once approved by their respective Boards, for review by the Finance Committee. The Finance Manager shall ensure that each Annual Budget complies with provisions of any funding arrangement such entities have entered into with the Kaska Dena National Government. If the budget is deemed to be in

order, the Finance Committee and Council shall recommend the budget be presented to the Kaska Dena National Council for approval.

- (6) Throughout the Fiscal Year, as required, the Finance Committee may recommend for approval by the Kaska Dena National Council, an amended Annual Budget to be prepared. The Council may approve the amended Annual Budget containing estimates of revenues and expenditures by department, program, institution, corporation and activity and for goods and services to be purchased in that Fiscal Year. If this occurs, the amended Annual Budget shall be considered the approved Annual Budget from the time of its approval until the end of the Fiscal Year to which it applies.
- (7) The Council shall 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.
- (8) To assist in the preparation of Annual Budgets, the Finance Manager shall establish a multi-year financial planning system, in accordance with any Kaska Dena National Government strategic plan, as part of the annual budgeting process.
- (9) The Finance Committee shall review each Annual Budget and long-term expenditure plans of departments, programs, institutions or corporations and upon completion of the review prepare a listing of priorities of the needs of each

Requisitions for Payment

25. (1) Notwithstanding any other Act, no payment shall be made from any Account or Fund in which monies are held to the credit of the Kaska Dena National Government unless a requisition for payment has been made under the authority of and in accordance with this Act, or subsequently enacted laws or regulations, signed by an Officer who has been so authorized by our Laws to make such a requisition, and accepted by the appropriate manager.
- (2) Senior Department Managers and/or the Finance Manager shall be authorized to sign requisitions for the expenditures of their departments in accordance with approved department budgets up to the limits established by regulation.

Unforeseen Payments

26. (1) No payment shall be made at any time from any Fund for any purpose unless the approved annual Budget authorizes the payment to be made for that purpose at that time.
- (2) Notwithstanding subsection (1), the Council may in the case of emergency, by order;
- (a) authorize the payment of money from the Operating Fund that is urgently required for the public good even though this money has not been identified in the approved Annual Budget; and
- (b) where a payment is authorized as set out in paragraph (a), the Council shall as soon as practicable, by order, approve an amended Annual Budget which includes the payment authorized as set out in paragraph (a).
- (3) 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.
- (4) Money received by the Kaska Dena National Government as a deposit or as security for future work or service to be provided by a contractor shall be held and payments shall be made from this money as set out in the contract agreement relating to the money received; but if there is no contract or agreement or if the contract or agreement does not contain any provisions or insufficient provisions describing how money is to be paid, the money shall be paid in accordance with this Act and any directives of the Council.
- (5) All payment made under this section shall be reported in the Public Accounts for that fiscal year in which the payment was made.

Amendment of Expenditures

27. The Finance Committee may, by directive from Council at a duly called Council meeting, control or limit payments from the approved Annual Budget and in doing so may;
- (a) identify programs or projects within the approved Annual Budget and distribute money amongst these programs and projects;
- (b) transfer money between programs and projects identified in the approved Annual Budget;
- (c) distribute money among activities within a program or project or authorize a senior manager to do so;

- (d) transfer money between activities within a program or project or authorize a senior manager to do so; and
- (e) assign responsibility for the control and management of money for a program or project to a senior manager.

Contracts

28. (1) Within limits established by regulation, the Finance Manager, if authorized by Council, may enter into contracts, or may delegate to senior managers the ability to enter into contracts in accordance with existing policy or regulation and within their department budgets, as approved by Council and subject to such terms and conditions as the Finance Committee considers necessary.
- (2) Notwithstanding any other enactment, a contract shall not be entered into and is not enforceable against the Kaska Dena National Government unless entered into by Council, Finance Manager or Senior Manager authorized to do so under subsection (1).
- (3) It is a term of every contract that money that becomes due under the contract is not payable unless a provision of this Act, another enactment or the Annual Budget authorizes the payment to be made in the fiscal year in which the payment falls due.
- (4) The Finance Manager shall establish a Registry of Contracts and each contract shall be entered and its status maintained by Fiscal Year.

Advances

29. Subject to any directives of the Council, the regulations and this Act, an advance may be made from the appropriate Fund to any person to enable that person to pay expenses that are authorized to be paid by this Act or the Annual Budget.

Record of Commitments

30. (1) Every senior manager shall keep records of commitments for the expenditures chargeable to the programs and projects for which she or he has been assigned responsibility under section 28.
- (2) Every person authorized to spend public money shall account for it in the manner provided under this Act or the regulations or as set out in a directive of the Finance Manager.

Accounts and Reporting by the Council

31. (1) The Council shall direct the Public Accounts of the Kaska Dena National Government to be prepared, maintained and published in a manner which is consistent with the standards generally accepted for governments in Canada, and shall report not less than annually to the Kaska Dena National Assembly on the Public Accounts.
- (2) The Council shall report not less than annually on the financial management or investment of all Public Monies.

ASSETS

Asset Management

32. The Finance Committee shall ensure the establishment and implementation of a system of asset management for all physical assets of the Kaska Dena National Government.

Power to Invest

33. (1) If money is in a Fund, other than money in a Trust Fund, and is not immediately required for payments, the Council may establish regulations for its investment.

Loans, Advances and Equity Investments

34. (1) No loan of Public Monies shall be made.

Public Property

35. (1) No disposition or loan of Public Property shall be made to any person except as authorized by a Directive of the Finance Committee.
- (2) Subject to this Act, the Finance Committee may issue Directives authorizing and governing
- (a) the acquisition of property by the Kaska Dena National Government;
 - (b) the custody and control of Public Property;
 - (c) the disposal of Public Property; and
 - (d) the deletion of Public Property from the inventory of the Kaska Dena National Government.

Charging for Services or Use of Property

36. Subject to any other enactment, if a service or the use of Public Property is provided by the Kaska Dena National Government to any person, the Finance Committee may, by Directive, set a fee or charge to be paid by the person to whom the service or the use or the property is provided.

LIABILITIES

Authority to Borrow

37. (1) No money shall be borrowed or security issued by the Kaska Dena National Government except as authorized by a regulation made under this Act.
- (2) No money borrowed by the Kaska Dena National Government shall be used for any purpose other than that stated in the regulation, except that if,

on completion of the work for which the money was borrowed, there remains an unexpended balance, the balance shall be used by the Kaska Dena National Government.

Debt Management and Recovery Plan

38. (1) In the event of the Kaska Dena National Government contracting a debt under section 37 the Finance Manager shall have prepared a Debt Management plan to be approved as a part of the Annual Budget.
- (2) In the event of a deficit of the Operating Fund, the Finance Manager shall have prepared a Recovery Plan to be approved as a part of the Annual Budget.

MISCONDUCT

Failure to Account for Public Money

39. (1) If the Council has reason to believe that a person
- (a) has received Public Money intended to be provided to the Kaska Dena National Government;
 - (b) has received Public Money and has not duly accounted for it; or
 - (c) has received Public Money for a specific purpose and has not applied it to that purpose;

the Council will direct the Finance Manager to prepare a written notice requiring any such person to:

- (a) return the Public Money;
 - (b) account for the Public Money; or
 - (c) apply it to its specific purpose and provide vouchers or receipts indicating that the person has applied the money as was intended.
- (2) A Council member who votes for a Kaska Dena 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 Kaska Dena 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.

- (3) A written complaint may be filed with Council if a Kaska Citizen believes that:
 - (a) a disbursement, expenditure, liability or other transaction is not authorized by or under the Kaska Dena Constitution or a Kaska Dena National Government law; or
 - (b) there has been a theft, misuse, misappropriation, or irregularity in the Funds, Accounts, assets, liabilities and financial obligations of the Kaska Dena National Government or its institutions or corporations.
- (4) Upon receipt of a complaint from a Kaska Citizen under 39(3), Council shall:
 - (a) direct the Finance Committee to review the complaint and prepare and submit a report concerning the matters raised; and,
 - (b) after review of the report, send a written response to the Citizen filing the complaint stating action taken.

Statement of Account

40. (1) The notice described in section 39(1) shall be served by delivering it to the person or by mailing it to her or him by registered mail to the last known address of the person.
- (2) If a person fails to comply with a notice served on them as set out in subsection (1) within the time stated in the notice, the Finance Manager shall prepare a Statement of Account between that person and the Kaska Dena National Government, showing the amount of money not duly returned, accounted for or applied, and charging interest on the whole or any part of it at a rate and from a date determined by the Finance Manager.
- (3) In a proceeding for the recovery of Public Money, a copy of the account prepared as set out in subsection (2), when certified by the Finance Manager, shall be evidence that the amount stated in the account, with interest, is due and payable to the Kaska Dena National Government without proof of the appointment or signature of the Finance Manager, and the amount and interest, at the rate established under subsection (2) to the date of recovery, may be recovered as a debt due to the Kaska Dena National Government.

Loss Through Misconduct

41. (1) 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 Kaska Dena National Government.

- (2) 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 his or her duties or in the operation, care or custody of Public Monies or Property.

Evidence

42. An Affidavit shall be admissible in a proceeding for the recovery of Public Money from a person responsible for the collection, management or disbursement of such Public Money where it appears from the following documents that she or he has received Public Monies and has refused or neglected to pay it to the proper persons at the proper times:
 - (a) books or accounts kept by her or him or under his or her control;
 - (b) an accounting by him or her; or
 - (c) a written acknowledgement or confession by him or her.

Failure to Deliver Money or Documents

43. (1) If a person refuses or neglects to deliver Public Money or an account, statement, return or proper voucher to the senior manager to whom the person is required under this or any other enactment to deliver, the Finance Manager may direct the person to deliver it within a stated time, not less than fourteen days after the date of service of the direction.
- (2) The direction described in subsection (1), shall be served by delivering it to the person or by mailing it to her or him by registered mail to their last known address.
- (3) A person who does not comply with a direction under this section commits an offence.

Financial Public Records

44. (1) 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 Kaska Dena National Government.

- (2) The Council may make regulations authorizing the archiving and destruction of any Financial Public Records.
- (3) Any person who destroys Financial Public Records, except as authorized by the regulations, commits an offence.

Recovery of Penalties and Forfeitures

- 45. The Council may sue for and recover on behalf of the Kaska Dena National Government a penalty to enforce a forfeiture imposed by any law relating to Public Money in any court.

Offence

- 46. A senior manager commits an offence when:
 - (a) in connection with the performance of duties, willfully makes or signs a false entry, certificate, requisition, return or other document; or
 - (b) having knowledge or information of the violation of any enactment that provides for the expenditure or collection of Public Monies or of fraud committed by any person against the Kaska Dena National Government, and fails to immediately report such knowledge or information in writing to the Finance Manager.

Defenses to Action for Recovery of Public Money

- 47. (1) If Public Monies are paid to a person by the Kaska Dena National Government:
 - (a) in excess of the authority conferred in an enactment;
 - (b) without the authority of an enactment; or
 - (c) contrary to an enactment,

and a right is asserted by the Kaska Dena National Government to recover the payments or part of it, or to retain other money in full or partial satisfaction of a claim arising out of the payment, the person against whom the right is asserted may, subject to subsection (2), rely on any matter of fact or law, including estoppel, which would constitute a defense in a proceeding brought to recover the payment as if it had been made under a mistake.

- (2) Subsection (1) does not enable a person to rely on a defense that a payment made was made under a mistake of law, and the right of the Kaska Dena National Government to recover the money paid by it is not

impaired by reason only that the payment was made under a mistake of law.

Penalty

48. 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

49. Nothing in this Act affects or abrogates the right of the Kaska Dena 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.

M:\CLIENT\LIARD (L.A.W.S.)\968-1\Annotated KDNG Government Finance Act Jan 2008 FINAL.doc