

DÉLĪNĒ GOT'ĪNĒ GOVERNMENT

FINANCIAL ADMINISTRATION ACT

SEPTEMBER 1, 2016

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The Délı̄ne Got'ı̄ne Government enacts as follows:

Citation

1. This *Act* may be cited as the *DGG Financial Administration Act*.

Application

2. (a) This *Act* applies to all revenues, expenditures and investments under the control of the DGG.

(b) Notwithstanding subsection (a), this *Act* does not apply to the approval of any loan or guarantee which is the extension of existing commercial arrangements entered into by the Délı̄ne Land Corporation or Charter Community of Délı̄ne and approved on the Effective Date by the DKK.

Principles

3. Sound financial management is a fundamental feature of the DGG, and will be achieved through:
 - (a) a thorough and effective budget process;
 - (b) the responsible management of revenues and expenditures;
 - (c) ongoing monitoring of actual budget expenditures against planned expenditures;
 - (d) the avoidance of unplanned deficits and debts; and
 - (e) sound and detailed financial management policies and procedures.

Definitions

4. In this *Act*:

“Annual Budget” means the forecast of planned revenues and expenditures of the DGG for a fiscal year;

“Beneficiary” means a person enrolled as a Délı̄ne participant in the enrolment register pursuant to Chapter 4 of the SDMCLCA;

“Chief Financial Officer” (“CFO”) means the person appointed under section 7(2);

“Délı̄ne Final Self-Government Agreement” (“DFSGA”) means the Délı̄ne Final Self-Government Agreement negotiated between the Délı̄ne First Nation Band and the Délı̄ne Land Corporation, the Government of the Northwest Territories and the Government of Canada;

“Déḻṉé Financing Agreement” (“DFA”) means the Déḻṉé Financing Agreement negotiated between the Déḻṉé First Nation Band and the Déḻṉé Land Corporation, the Government of the Northwest Territories and the Government of Canada;

“Déḻṉé Got’̱ṉé Government” (“DGG”) means the Déḻṉé Got’̱ṉé Government and its Institutions as defined in the DFSGA;

“Déḻṉé K’̱aow̱əḏó Ḵə” (“DKK”) means the body described in section 3.4.1(b) of the DFSGA and established by Part 1, Division 2 of the *DGG Government Organization Act*;

“Déḻṉé Ḻénats’ehḏə Dzené” means a meeting of the DFN Citizens and Residents of the Déḻṉé District referred to in section 3.9.1 of the DFSGA and Part 3 of the *DGG Government Organization Act*;

“Déḻṉé Monies” means all funds held by, due or attributable to the DGG;

“Dene Gha Gok’ə Réhkw’i” (“DGGR”) means the body established in accordance with section 3.2.9 of the DFSGA comprised of DFN Citizens who are Beneficiaries and Part 1, Division 5 of the *DGG Government Organization Act*;

“Department” means the Department of Finance established under this *Act*;

“Designated Sahtú Organization” (“DSO”) means a designated Sahtú organization pursuant to the provisions of Chapter 7 of the SDMCLCA;

“DFN Citizens” means a person who is a citizen pursuant to Chapter 5 of the DFSGA or pursuant to the *DGG Citizenship Act*;

“DGG Law” means laws of the DGG made pursuant to the Jurisdictions of the DGG set out in the DFSGA and regulations made pursuant to those laws;

“Effective Date” means the date on which the DFSGA comes into force, which is September 1, 2016;

“Employee” means an individual appointed or hired as an employee of the DGG;

“Executive Committee” means the body established under section 50 of the *DGG Government Organization Act*;

“Finance Committee” means the body established under section 11 or its successor;

“Generally Accepted Accounting Principles” (“GAAP”) means accounting principles generally accepted in Canada from time to time. If the handbooks published by the Canadian Institute of Chartered Accountants, the Public Sector Accounting Board, or their successors include a relevant statement of a principle or an accounting guideline, that statement will be considered conclusively to be an accounting principle or guideline generally accepted in Canada;

“**Residents**” means residents of the Délı̨ne District; and

“**SDMCLCA**” means the Sahtú Dene and Metis Comprehensive Land Claim Agreement.

Fiscal Year

5. The fiscal year of the DGG shall be the period from April 1 in one year to March 31 of the following year.

Délı̨ne K’aowádó Kə

6. (1) The DKK shall be responsible for the administration of the financial affairs of the DGG, including matters relating to:
 - (a) establishing accounting policies and practices of the DGG, which may include:
 - (i) the form and content of accounts;
 - (ii) reporting, disclosure and record keeping;
 - (iii) collecting interest on overdue accounts;
 - (iv) management of capital projects;
 - (v) informing and involving DFN Citizens in capital planning and projects;
 - (vi) making loans and investments; and
 - (vii) contracts and tendering;
 - (b) the financial management practices of the DGG;
 - (c) the management of Délı̨ne Monies, public property and investments;
 - (d) the management and control of revenue, expenditures and assets of the DGG;
 - (e) the preparation, review, approval and control of the Annual Budget; and
 - (f) the internal audit of DGG financial statements.
- (2) The DKK may, to assist in the performance of its powers and duties under this and any other DGG Law, issue directives which shall be followed by Employees.
- (3) The DGG shall be responsible for ensuring that separate accounts are maintained for the revenues and expenditures relating to the management of lands and other assets held by the DGG by virtue of it being a DSO.

Department of Finance

7. (1) There is hereby established a Department to be called the Department of Finance, which shall be responsible for administering and carrying out the financial affairs of the DGG as directed by the DKK.
- (2) A CFO shall be appointed by the DKK.
- (3) Subject to any direction provided by the DKK, the CFO shall:
 - (a) act as the senior financial officer of the DGG and head of the Department;
 - (b) ensure the proper collection, receipt, recording and disposition of Déljñę Monies and ensure that proper authority exists for expenditure of Déljñę Monies;
 - (c) establish procedures for maintaining and managing DGG accounts and the handling of Déljñę Monies by Employees;
 - (d) maintain the accounts and other financial records of the DGG;
 - (e) evaluate the accounting and financial management of systems of the DGG and, as necessary, recommend improvements to the DKK;
 - (f) prepare any financial statements in accordance with GAAP and reports required by the DKK; and
 - (g) perform other duties assigned by the DKK or as set out in any other DGG Law.

Financial Statements

8. (1) The CFO shall prepare the financial statements for the DGG for each fiscal year in accordance with GAAP and the DGG accounting policies established by the DKK and shall transmit the financial statements to the DKK no later than the 15th day of July following the end of the fiscal year which the statements pertain to.
- (2) The financial statements shall contain the following:
 - (a) a statement of the DGG's accounting policies as established by the DKK;
 - (b) statements of the financial position of the DGG as of the end of the fiscal year, the revenues and expenditures of the DGG for that fiscal year and any changes in the financial position of the DGG in that fiscal year relative to the previous fiscal year; and
 - (c) statements prepared in a form directed by the DKK 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 DGG as of the end of that fiscal year,
 - (iii) other accounts and information that are necessary to show the financial position of the DGG with respect to that fiscal year,
 - (iv) any assets, debts and obligations written off in that fiscal year,
 - (v) any debts and obligations discharged in that fiscal year, and
 - (vi) any other financial information that may be required by the DKK.
- (3) The financial statements will include the following:
- (a) the report of the auditor appointed by the DGG under section 9 to review the financial statements; and
 - (b) any other information required by the DKK to be included in the financial statements.
- (4) At the Délı̄nə Łénats'ehdə Dzené, the DGG shall:
- (a) table and present the audited financial statements; and
 - (b) table a written report to the Beneficiaries and DGGR summarizing the management and administration of assets, lands and responsibilities under the SDMCLCA.

Appointment of the Auditor

9. The DKK shall appoint an independent auditor, or auditors as required, who is a member in good standing of a corporation, institute or association of accountants incorporated under an Act of the legislature of the Northwest Territories or Canada to prepare the financial statements of the DGG.

Disclosure of Information to DFN Citizens

10. The following information shall be made available to any DFN Citizen and Resident upon request to the CFO:
- (a) the Annual Budget, and any amendments made to it;
 - (b) any multi-year finance plans, and any amendments made to them;
 - (c) annual financial reports and financial statements of the DGG;
 - (d) any deficit reduction or debt recovery plan;

- (e) any agreement or funding arrangements with the federal or territorial government or with any other party for the provision of funding to the DGG for its programs and operations;
- (f) any debt as may have been approved by the DGG, including any planned levels of debt financing;
- (g) any strategic plan;
- (h) the inventory of DGG capital assets;
- (i) any evaluations prepared with respect to the DGG programs, services or initiatives; and
- (j) any financial regulations, policies and procedures developed pursuant to this *Act*.

Finance Committee

11. The DKK shall establish a Finance Committee within 30 days of the Effective Date in accordance with this *Act* and regulations.
12. The Finance Committee will:
 - (a) review and recommend to the DKK approval of the Annual Budget and multi-year financial plans, in accordance with this *Act* and regulations;
 - (b) monitor, review and evaluate the financial position of the DGG, financial decisions of the DKK, and financial policies and procedures;
 - (c) monitor the financial performance of the DGG against the approved Annual Budget and multi-year financial plans and report any significant variations to the DKK;
 - (d) review and make recommendations to the DKK concerning:
 - (i) amendments to the Annual Budget and multi-year financial plans;
 - (ii) strategic plans;
 - (iii) borrowing and loans;
 - (iv) deficit reduction plans; and
 - (v) debt recovery plans;
 - (e) ensure financial accountability of the DGG to DFN Citizens and Residents through various mechanisms for accountability established by this *Act*, regulations and policies;

- (f) generally promote compliance by the DGG, the CEO, the CFO and program directors and employees with this *Act* and regulations; and
 - (g) report to DFN Citizens and Residents at the Délıne Łénats'ehdā Dzené on overall financial accountability, transparency and management of DGG financial affairs and compliance with this *Act* and regulations by the DGG and its representatives, staff and officials.
13. The DKK may dismantle the Finance Committee and transfer its responsibilities to another body.

Deposit of Money

14. (1) The CFO will establish, in the name of the DGG, such accounts as are necessary for the deposit of Délıne Monies with a charter bank or trust company.
- (2) Every person who collects or receives Délıne Monies shall pay or give any such Délıne Monies to the CFO, or his or her delegate.
- (3) The CFO, or his or her delegate, shall deposit all Délıne Monies that he or she receives to the credit of the DGG.
- (4) Every person who collects or receives Délıne Monies shall keep a record of the money received in accordance with established accounting policies and practices of the DGG.

Annual Budget

15. (1) The DKK shall cause an Annual Budget to be prepared for its consideration by March 15th of each fiscal year by the Department.
- (2) Throughout the fiscal year, as required, the DKK may amend the Annual Budget and approve such amendments.
16. The Annual Budget will:
- (a) be prepared on a consolidated basis, encompassing all operations for which the DGG is responsible;
 - (b) identify anticipated sources of revenue from all sources including taxes, fees, licenses and charges, transfers from Canada, the Government of the Northwest Territories or any other government, grants and contributions, proceeds from borrowing, income from DGG business operations, and proceeds from DGG lands and natural resources;
 - (c) identify projected expenditures including for programs and services, payment of principal and interest on debt, payments for all other purposes; and

- (d) identify anticipated annual and accumulated surpluses or deficits, and the application of any year end surplus.
- 17. The DKK shall approve the Annual Budget by resolution.
- 18. The DGG budget planning and approval process shall be developed by the DKK and set out in a DGG policy.
- 19. The approved Annual Budget represents the terms and conditions for revenues and expenditures of the DGG, its directorates, programs and administration.

Strategic Plan

- 20. The DKK will develop a five-year strategic plan to inform the preparation of Annual Budgets and any multi-year financial plans.

Payments

- 21. (1) No expenditure of Déljné Monies shall be made for any purpose unless the approved Annual Budget authorizes such payment to be made.
- (2) Notwithstanding subsection (1), the DKK may, at any time, authorize the payment of Déljné Monies when such a payment is in the public interest even though this money has not been identified in the approved Annual Budget.
- (3) Where a payment is so authorized pursuant to subsection (2), the DKK shall amend the Annual Budget.

Contracts

- 22. (1) The DKK may authorize Employees to negotiate contracts subject to any such terms and conditions as may be set by the DKK.
- (2) A contract shall not be entered into and is not enforceable against the DGG unless entered into by the DGG.
- (3) The DKK shall adopt continuing contracts by passing a resolution to such effect, and such contracts shall be treated as if they were entered into by the DGG in accordance with subsection (2).

Power to Invest

- 23. Déljné Monies must not be invested by the DGG without the authority of this *Act* or any other DGG Law.
- 24. Persons investing Déljné Monies must exercise judgment and care that a person of prudence, discretion and intelligence would exercise as a trustee of property of others.

25. (1) Where Déljné Monies are not immediately required for payments, the Déljné Monies may, in accordance with any terms and conditions approved by the DKK, be invested in the name of the DGG in one or more of the following:
- (a) securities that are obligations of or are guaranteed by Canada, the United States of America, a province or a territory;
 - (b) fixed deposits, notes, certificates or short-term papers of or guaranteed by a bank;
 - (c) commercial paper issued by a company incorporated under the laws of Canada or of a province or territory, the securities of which are rated in the highest rating category by at least two recognized security rating institutions; or
 - (d) any other investments or class of investments prescribed by a regulation or policy under this *Act*, provided that the risk of such investments have been evaluated.
- (2) Any investment held under this section may be disposed of.
- (3) Any net income resulting from an investment in any fiscal year from the purchase, holding or sale of securities shall be credited to revenues of that fiscal year.
- (4) Any net loss shall be charged to an account within the approved Annual Budget for that purpose.
- (5) The Finance Committee may appoint a public body or person(s) to provide advice on the exercise of the handling or and other matters relating to investments.
- (6) The DGG may make policies or regulations for investing in DFN Citizen activities.

Loans, Guarantees or Indemnities

26. No loan of Déljné Monies or guarantee of any loan or indemnity shall be made except as authorized by the DKK.
27. For greater certainty, loans are defined as:
- (a) personal or commercial loans such as usually obtained from financial institutions; or
 - (b) advances, other than may be provided for under a respective policy, against remuneration for employment, contract or other fees for services, or advances against or borrowing from any public monies.

28. No bills shall be paid on behalf of individuals unless the non-payment of bills could adversely affect assets controlled by the DGG. Prior to payment, such bills shall be approved by the CFO or Finance Committee.
29. No guarantee may be provided by the DKK unless it has considered the report of the CFO under section 30.
30. Before the DKK authorizes a guarantee under section 29, the CFO must prepare a report for the Finance Committee
 - (a) identifying any risks associated with giving the guarantee, and
 - (b) assessing the ability of the DFN to honour the guarantee should it be required to do so.
31. No indemnity may be provided in the name of the DGG without the approval of the DKK and an indemnity must not be given unless it is
 - (a) authorized under a DGG Law,
 - (b) necessary and incidental to and included in another agreement to which the DFN is a party, or
 - (c) in relation to a security granted that is authorized under this *Act* or another DGG Law.
32. Subject to applicable provisions of DGG Law, the DKK, in respect of guarantees and indemnities, must establish policies, directives or both, as follows:
 - (a) specifying circumstances under which an indemnity or guarantee may be given without DKK approval;
 - (b) designating the persons who may give an indemnity or guarantee and specifying the maximum amount of any indemnity or guarantee which may be given by them;
 - (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
 - (d) specifying the records to be maintained of all guarantees and indemnities.

Authority to Borrow

33. No money shall be borrowed or security issued by the DGG except as authorized by this *Act* or any other DGG Law.

34. The CFO may incur trade accounts payable or other accounts payable provided they are for an expenditure authorized under
 - (a) the Annual Budget for the current fiscal year, or
 - (b) multi-year financial plans.
35. The DKK may, by resolution, authorize
 - (a) the CFO to obtain an overdraft or line of credit in the name of the DGG for the purpose of covering any short term cash flow needs of the DGG for its operations; and
 - (b) any drawdown on such overdraft or line of credit.
36. The DKK may, by resolution, authorize any borrowing by the DGG for a purpose of a capital nature.
37. The DKK may, by resolution, authorize any borrowing by the DGG for the purpose of repaying or refinancing any debt owed by the DGG.
38. Subject to sections 39 and 40, money borrowed by the DGG must not be used for any purpose other than the purpose for which it was borrowed.
39. Money borrowed by the DGG that is not immediately required for expenditures may be invested in accordance with this *Act*.
40. Money borrowed by the DGG that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

Acquiring or Disposing of Property

41. No disposition or loan of public property shall be made to any person except as provided for by this *Act* or other DGG Laws.
42. Subject to DGG Law, the Finance Committee may issue the following directives in respect of public property
 - (a) the acquisition or holding of property by the DGG;
 - (b) the custody and control of public property including the maintenance of inventories;
 - (c) the disposal or loaning of public property; and
 - (d) the deletion of public property from inventoryof, for or in the name of the DGG.

43. The DGG may make regulations in respect to public property as necessary including providing for the recovery of loss or damage to public property caused by negligence or wilful misconduct of a public officer who is responsible for the operation, care or custody of the public property.
44. Subject to any other law, policy or procedure the Finance Committee may issue directives to:
 - (a) establish fees for the provision of a service by the DGG to any person or for the use of public property by any person;
 - (b) establish conditions subject to which a service may be provided by the DGG to any person or subject to which public property may be used by any person; and
 - (c) authorize public officers to provide to any person a service or the use of public property and to enter into agreement for the provision of a service or the use of public property.

Records Respecting Déljņę Monies

45. All records respecting Déljņę Monies that are kept, used by, received or taken into the possession of a person who is or was responsible for the collection, management or expenditure of Déljņę Monies or for the accounting for such Déljņę Monies, and all money, securities or things of value received or taken into his or her possession by reason of his or her responsibilities for Déljņę Monies, belong to the DGG.
46. The DGG will adhere to principles of transparency, disclosure and redress, in accordance with:
 - (a) the DFSGA;
 - (b) the DFA;
 - (c) DGG Laws; and
 - (d) standards generally accepted for similar governments in Canada.
47. All accounts and financial statements prepared under this *Act* will be prepared in accordance with GAAP.
48. The financial records of the DGG for a fiscal year shall be retained by the DGG for a period of ten (10) years after completion of the audited consolidated financial statements for that fiscal year.
49. The annual audited consolidated financial statement will be made publicly available.

Deficits and Debts

50. The DGG will make reasonable efforts, through its financial and budget management process and in its financial decisions, to achieve a zero deficit at fiscal year end and to operate without an accumulated deficit from one fiscal year to the next.
51. In the event DGG operations and activities result in a deficit at the end of any fiscal year, the DKK shall prepare a deficit reduction plan which will attempt to meet both the essential needs of the DGG and eliminate the deficit within the next fiscal year, in a balanced manner.
52. A deficit reduction plan may include:
 - (a) more stringent procedures for approving, recording or reporting expenditures;
 - (b) the preparation of a revised or an emergency budget; and
 - (c) reporting on the implementation of the deficit reduction plan to DFN Citizens and Residents.
53. In the event the DGG incurs a debt that is in excess of ten percent (10%) of its Annual Budget and such debt must be carried over from one fiscal year to the next, the DKK shall prepare a debt recovery plan.
54. A debt recovery plan may include:
 - (a) the financial actions that will be taken to eliminate the debt;
 - (b) any incremental amounts by which the debt will be reduced and eliminated, and associated time frames; and
 - (c) reporting on implementation of the debt recovery plan to DFN Citizens and Residents.
55. A deficit reduction plan or a debt recovery plan prepared by the DKK will be presented for review and comment by the Finance Committee prior to its approval by the DKK.
56. A debt recovery plan approved shall be presented to the DFN Citizens and Residents at the Dól̄n̄ę Łénats'ehdā Dzené.

Write Off of Debts

57. All or part of a debt or obligation owed to the DGG may be written off if
 - (a) approved by the Finance Committee, or
 - (b) done under the authority or a policy or direction of the Finance Committee.

58. The write-off of all or part of a debt or obligation under this section does not extinguish the right of the DGG to collect the amount of the debt or obligation written off.

Extinguishment of Debts

59. All or part of a debt or obligation owed may be forgiven only if
- (a) approved by the Finance Committee, or
 - (b) done under the authority of a policy or direction of the Finance Committee.

Surplus

60. Subject to DGG Law and regulations, an operating surplus at the end of the fiscal year must be retained in the Administrative Reserve Fund.

Amendment

61. This *Act* may be amended in accordance with DGG Law.

Commencement

62. This *Act* comes into force on the date of its enactment.

Conflict

63. In the event that the provisions of this *Act* conflict with the provisions of the DFSGA, the provisions of the DFSGA prevail.
64. In the event that the provisions of this *Act* conflict with the provisions of the D  l  n   Got'  n        , the provisions of the D  l  n   Got'  n         prevail.
65. In the event that the provisions of the DFSGA conflict with the provisions of the D  l  n   Got'  n        , the provisions of the DFSGA prevail.
66. In the event that the provisions of the DFSGA conflict with the provisions of the SDMCLCA, the provisions of the SDMCLCA prevail.