REPLY SUBMISSION OF THE GOVERNMENT OF YUKON

TO THE

2025 YUKON JUDICIAL COMPENSATION COMMISSION

July 29, 2026

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I. Introduction

1. This Reply Submission is filed on behalf of the Government of Yukon ("YG" or "Government") in response to the *Submission of the Territorial Court Judiciary in Relation to the Territorial Court Judges and the Justices of the Peace* to the 2025 Yukon Judicial Compensation Commission (the "JCC") dated July 16, 2026 (the "Judiciary's Submission").

2. This Reply addresses six issues raised in the Judiciary's Submission that were not addressed in YG's principal *Submission of the Government of Yukon to the 2025 Yukon Judicial Compensation Commission* dated July 17, 2026 (the "YG's Submission"). YG relies on, and does not repeat, the balance of its July 17, 2026 Submission. All positions advanced therein are maintained in full.

3. The six new issues addressed in this Reply are:

   (a) Nunavut is not an Appropriate Compensation Comparator for Yukon Territorial Court Judges (the "TCJs");

   (b) Nunavut is Not an Appropriate Comparator for Justice of the Peace (the "JPs") Compensation;

   (c) The Judiciary's Inconsistent Use of the 2005 Letter of Understanding (the "LOU");

   (d) The "Erosion" Argument Does Not Establish Entitlement to Percentage-Based Increases;

   (e) The Pension/Annuity Disparity is not a Proper Basis for a Northern Allowance; and

   (f) A Stable Financial Outlook Does Not Establish Entitlement to Additional Compensation.

4. Each of the above issues will be dealt with below.

II. Nunavut is not an Appropriate Compensation Comparator for Yukon TCJs

A. The Judiciary's Reliance on the Nunavut Comparison

5. The Judiciary's Submission relies on the compensation paid to judges of the Nunavut Court of Justice as a comparator for Yukon TCJs in two respects:

   (a) As a comparator jurisdiction for purposes of salary ranking (the Judiciary's Submission, paragraphs 104–110), which has the effect of reducing Yukon's relative ranking among designated statutory territorial and provincial comparators; and

   (b) As specific support for the Judiciary's proposal that TCJs receive a $12,000 annual Northern Allowance, citing the fact that justices of the Nunavut Court of Justice receive the same $12,000 Northern Allowance payable to federally-appointed section 96 judges under the *Judges Act* (Judiciary Submission, paragraph 161).

6. The Judiciary's initial July 2025 proposal does not include any reference to Nunavut as a comparator so the Judiciary's 2026 submission should not now be using Nunavut as a comparator.

7. YG's Submission addressed the Northern Allowance proposal on other grounds—including comparisons to Saskatchewan, the Northwest Territories, Alberta, British Columbia and the existing Yukon Bonus—but did not specifically address the Nunavut comparison. This Reply fills that gap.

B. The Structural Difference: Nunavut Has Merged Its Courts into a Single Level

8. The fundamental difficulty with the Nunavut comparison is structural. Nunavut has combined its territorial court and its superior court into a single, unified court—the Nunavut Court of Justice. There is only one level of judges in Nunavut. The Judiciary's own submission acknowledges this fact at paragraph 104: *"In Nunavut, the Territorial and Supreme Courts have been merged into one court."*

9. Paragraph 106 of the 2022 JCC Report and Recommendations also highlights that the context in Nunavut is unique in Canada and therefore distinct from the Yukon:

> "Because it is a northern territory and because it was part of the NWT when the Act was amended, it is important for the JCC to be made aware of judicial remuneration in Nunavut. That being said, I note that Nunavut's territorial and supreme courts are unified and have a unified trial jurisdiction that is unique in Canada. Nunavut also has separate Justice of the Peace and Youth Courts."

10. By contrast, the Yukon continues to maintain two distinct levels of court and two distinct levels of judges:

    (a) TCJs, who are appointed by the territorial government under the *Territorial Court Act*, RSY 2002, c. 217 (the "TCA"), and whose compensation is determined through the Yukon JCC process; and

    (b) Justices of the Supreme Court of Yukon, who are federally-appointed under section 96 of the *Constitution Act*, 1867, and whose compensation is governed by the federal *Judges Act*, RSC 1985, c. J-1, and determined through the Federal Quadrennial Judicial Compensation and Benefits Commission process—a wholly separate regime.

11. These two levels of judges in the Yukon differ materially in their jurisdiction, their appointment processes, their enabling statutes, and their compensation regimes. The Nunavut Court of Justice, by virtue of its merger, exercises the *combined* jurisdiction of what in the Yukon are two separate courts.

C. Nunavut Court of Justice Compensation Tracks the Federal Judicial Salary

12. The Judiciary's own submission confirms at paragraph 105 and 106 that the salaries of Nunavut Court of Justice judges are set at the same level as federally-appointed puisne judges' salaries under the *Judges Act*:

- 2025: $414,900 (+ $12,000 northern allowance);
- 2026: $429,000 (+ $12,000 northern allowance);

- 2027: $429,000 plus the % change in the IAI for Canada over 2026 (+ $12,000 northern allowance); and
- 2028: the 2027 salary plus the % change in the IAI for Canada over 2027 (+ $12,000 northern allowance).

13. These figures are identical, dollar-for-dollar, to the salary chart for federally-appointed superior court judges set out at paragraph 74 of the Judiciary's Submission. In other words, the compensation of Nunavut Court of Justice judges mirrors *exactly* the compensation of Yukon's own Supreme Court justices—not the compensation of Yukon's TCJs.

14. This is not coincidental. Because Nunavut's merged court exercises both territorial and superior court jurisdiction, its judges' salaries and Northern Allowance are tied to the federal judicial compensation regime. Nunavut Court of Justice judges are, structurally and functionally, the equivalent of Yukon's Supreme Court justices (or, more accurately, the equivalent of a combined bench exercising both levels of jurisdiction). They are not the equivalent of Yukon's first-instance TCJs specifically.

D. The Comparison is not Appropriate

15. Comparing the compensation of Nunavut Court of Justice judges to Yukon TCJs is an inappropriate comparison. The proper analogue in the Yukon to a Nunavut Court of Justice judge's remuneration, if any, would be the compensation of a Justice of the Supreme Court of Yukon—not a TCJ.

16. The $12,000 Northern Allowance paid to Nunavut Court of Justice judges is the *same* $12,000 Northern Allowance paid to all federally-appointed section 96 judges in northern jurisdictions under the federal *Judges Act*—including the justices of the Supreme Court of Yukon. That allowance is a component of the federal judicial compensation package. The fact that judges who hold what is effectively a federal-level judicial office in Nunavut receive a federal allowance does not support, rationalize nor provide any objective basis whether Yukon TCJs—who hold a territorially-appointed office with different jurisdiction, different appointment processes, and a separate compensation regime—should receive the same federal allowance.

17. The Judiciary's submission at paragraph 161 states that "Justices of the Nunavut Court of Justice are paid the Northern Allowance of $12,000, the same as that payable to Justices

of the Supreme Court of Yukon pursuant to the *Judges Act*." This statement itself demonstrates the point: the Nunavut judges' Northern Allowance is a feature of the *federal* judicial compensation regime, paid to judges whose compensation is determined at the federal level. The appropriate question is not whether TCJs should receive the same allowance as federally-appointed judges, but whether the existing TCJ compensation—already the third-highest in Canada—adequately addresses the northern context, a question YG's Submission addressed in full at paragraphs 60–78.

18. Because the Yukon retains two distinct levels of judges (TCJs and Supreme Court justices), while Nunavut has only one level combining both, the Nunavut compensation figures—both the salary and the $12,000 Northern Allowance—are not a valid or reliable comparator for Yukon TCJs specifically. The Commission should give this comparison no weight in respect of the Northern Allowance proposal or in respect of any broader salary-ranking comparison advanced by the Judiciary.

E. The 90% Salary Linkage Is Not in Issue

19. For clarity, this Reply does not reopen the agreed 90% linkage of TCJ salaries to the salary of federally-appointed justices of the Supreme Court of Yukon. That linkage is a matter of agreement between the Parties. YG's submission on this point is directed solely to the use of Nunavut as a comparator jurisdiction insofar as the Judiciary invokes it to support the contested $12,000 Northern Allowance and any related salary-ranking argument.

F. Nunavut is Not a Statutory Comparator Jurisdiction

20. The Judiciary Submission asserts, at paragraph 104, that because the Northwest Territories split into two jurisdictions – the Northwest Territories and Nunavut – since the TCA was passed, Nunavut must now be considered a comparator jurisdiction under the Act, both as a matter of statutory interpretation and policy.

21. YG disagrees. Nunavut is not an appropriate comparator jurisdiction for purposes of the Act. Section 19(e) of the TCA identifies the comparator jurisdictions to be considered by the Commission as the Northwest Territories, British Columbia, Alberta and Saskatchewan. Nunavut is not named.

22. Nunavut established its Court on April 1, 1999. The TCA was enacted in 2002. If Nunavut's unified court had been intended to set out in the TCA as a comparator jurisdiction, it would have been included in 19(e) when the Act came into force. As a matter of statutory interpretation and legislative policy, the current legislation—which identifies only the Northwest Territories, British Columbia, Alberta and Saskatchewan as comparators—should not be read to implicitly include Nunavut.

23. This statutory interpretation argument reinforces, and does not merely duplicate, the structural argument advanced above. Whether or not Nunavut's merged court structure renders its judges' compensation an inapt functional comparator, Nunavut simply is not one of the jurisdictions that section 19(e) of the TCA directs the Commission to consider. The Commission should give the Nunavut comparison no weight on this independent, statutory basis.

G. No Evidentiary Basis for Equating TCJ Workload with Federally-Appointed Justices

24. At paragraphs 67 and 104, the Judiciary's Submission asserts that the work performed by TCJs is of similar difficulty and complexity to that performed by federally-appointed justices, and that the workload and skills demanded of TCJs are similar to those demanded of federally-appointed justices. Paragraph 67 asserts that both courts recruit from the same pool of candidates and that "the courts are similar in the level of difficulty and complexity of the respective workloads, skills demanded by the work, and in the qualifications required for appointment as a judge." Paragraph 104 points to Nunavut's merged court, and the example of a former TCJ who became Senior Judge of the Nunavut Court of Justice, as "a practical demonstration of the similarity of the workload and experience required on both courts."

25. YG submits that this assertion is made on an anecdotal basis, without any evidentiary foundation. No empirical data regarding TCJ workload, or other relevant aspects of TCJ work, has been put before the Commission to support a comparison with the workload of federally-appointed justices.

26. YG acknowledges that TCJs provide service to a number of communities throughout the Yukon, which necessitates travel that impacts a TCJ's family life, and it is on this basis

that YG has made its submissions on compensation (see YG's Submission). However, the Judiciary's assertion that TCJ workload is of the same complexity and volume as that of a federally-appointed justice has no evidentiary basis and should not be assumed on the strength of anecdotal evidence, such as a single example drawn from Nunavut.

III. Nunavut is Not an Appropriate Comparator for Justice of the Peace Compensation

A. The Judiciary's Reliance on Nunavut as a JP Comparator

27. The Judiciary's Submission, at paragraph 118, relies on Nunavut as a comparator jurisdiction for JP compensation, noting that Nunavut does not require JPs to have legal training, and that the vast majority of Nunavut JPs are part-time, non-legally-trained community JPs paid a fee-for-service hourly rate prescribed by the Commissioner in Executive Council.

B. YG's Response

28. YG submits that Nunavut is not an appropriate comparator for JP compensation.

29. As set out in Part II.F above, Nunavut is not listed in section 19(e) of the TCA as a statutory comparator jurisdiction. The same reasoning that excludes Nunavut as a comparator for TCJ salary and the Northern Allowance applies equally to JP compensation.

30. Accordingly, Nunavut JP compensation is not an appropriate comparator and the Commission should give it no weight.

IV. The Judiciary's Inconsistent Use of the 2005 Letter of Understanding

A. The Judiciary's Inconsistent Reliance on the LOU

31. The Judiciary's Submission relies on the 2005 LOU between YG, the TCJs, the Senior Presiding Justice of the Peace and the Justice of the Peace Association inconsistently,

invoking it favourably where convenient, and criticizing it, or the Government's compliance with it, elsewhere.

32. At paragraph 137(f), the Judiciary's Submission states that adopting the salary Presumption "encourages the Parties to narrow the discussion at an early stage of the process (as required by the LOU), and it is anticipated this narrowing will encourage consensus decision-making." At paragraph 146, the Judiciary's Submission states that adopting a percentage stipend for the Chief Judge "will simplify the process and promote cost-effectiveness, consistent with the goals of the 2005 LOU."

33. However, at paragraphs 195 and 201, the Judiciary's Submission is critical of the LOU, or of the Government's conduct under it.

B. YG's Response

34. YG submits that the Judiciary's treatment of the LOU is inconsistent and, in places, incorrect.

35. *First*, at paragraph 195, the Judiciary's Submission refers to "the Government's failure to follow the timelines in its own 2005 LOU." The LOU is not a Government document; it is an agreement between the Parties—including both the Judiciary and the Government—and it is inaccurate to characterize it as belonging to the Government alone

36. *Second*, at paragraph 201, the Judiciary's Submission points to the specific timeframes set out in the 2005 LOU—including appointment of the Commissioner by January 31, 2025, positions and rationale to be exchanged by the Parties by May 31, 2025, and exploration of a joint submission by August 31, 2025—and criticizes the Government for not complying with them. In fact, neither Party has followed the LOU's informal timelines. Further, to the extent compliance with the LOU is an issue, the Parties have made submissions to the Commissioner in the formal JCC process, and it is the Commissioner who has set the timelines for the Parties to provide and exchange submissions in that process. The Judiciary's Submission conflates the informal timelines under the LOU with the distinct timelines set by the Commissioner in the formal JCC process; these are two separate processes.

37. *Third*, the Government submits that the LOU has not been effectively used to streamline the JCC process, encourage consensus-based decision making or promote costs-savings as noted at paragraph 137(f) and 146 of the Judiciary's Submission.

38. *Fourth*, the LOU is not intended to promote automatic remuneration increases by eliminating the authority or requirement for future deliberation by a JCC Commissioner; rather, the statutory factors under section 19 of the TCA must be considered in each round of the JCC.

39. *Fifth,* regarding delay, at paragraph 204, the Judiciary's Submission argues that the Government "designs, and therefore controls, the Commission process," and that it is therefore not appropriate for the Judiciary to bear the cost of delay "it has chosen to have in the process." This is incorrect. The JCC process is an independent process controlled by the Commissioner after submissions by the Parties. The Government does not control the JCC process, does not direct the Commissioner in any way, and has no influence over the outcome or recommendations of the JCC process.

40. The Commission should reject the Judiciary's characterization of the LOU as a Government document, and its characterization of the Government as controlling the JCC process.

41. Accordingly, the Commission should give no weight to the argument that interest should be paid on retroactive pay adjustments because each Party can affect timelines and contribute to delays in the process. In the 2025 JCC process, timelines were affected by the territorial election in November 2025, both before-hand due to the caretaker convention and after the election due to government transition. While two different branches of government (i.e., the judiciary and executive), it is the same indivisible government and both are affected by or have no control over the legislated requirement of the Government to call an election. It is not appropriate for one branch of government to bear the burden of additional costs as a result.

V. The "Erosion" Argument Does Not Establish Entitlement to Percentage-Based Increases

A. The Judiciary's Erosion Argument

42. At paragraphs 144–146, 169, 175 and 178, the Judiciary's Submission argues that, absent a percentage-based approach for various categories of compensation—including the Chief Judge and Supervising Judge stipends, the judicial allowance, and JP hourly rates—those categories will "erode" relative to judicial salary, and that increases are necessary to address erosion caused by increases in the cost of living.

43. For example, paragraph 144 notes that the Chief Judge's $15,000 stipend has fallen from 4.48% of salary in 2022 to a projected 3.89% in 2026. Paragraph 169 argues that the purchasing power of the $3,000 judicial allowance, unchanged since 2004, has eroded considerably due to inflation. Paragraph 175 argues that JP hourly rates risk eroding relative to judges' salaries if not tied to a percentage formula.

B. YG's Response

44. YG submits that the perceived erosion in various components of compensation does not establish that percentage-based or formula-based increases are appropriate, required or in the public interest.

45. Cost of living and inflation are broad economic phenomena that affect all Canadians, and do not, by themselves, demonstrate that judicial compensation is eroding to a point of inadequacy. The Commission's mandate is not to restore remuneration to a previous real-dollar value, but to determine whether compensation is fair, adequate and sufficient to safeguard judicial independence, having regard to the statutory factors and prevailing economic conditions.

46. There is no evidence before the Commission that the Government's proposed remuneration package is insufficient to achieve the statutory objectives, or that compensation would erode to a point of inadequacy. An assertion of erosion, without more, does not provide a principled basis for establishing defined ongoing increases through a percentage-based or formula-based relationship for all aspects of remuneration.

47. The concept of "erosion" implies a loss that renders compensation no longer adequate or competitive; it does not occur over a short period, or as a result of reasonable inflation. YG submits that the compensation it has proposed is not only adequate and competitive, but generous, noting that the judicial salary proposed in this case would be the third highest in Canada.

48. Further, also at paragraph 144, the Judiciary argues that "adopting a percentage approach will effectively remove the need for future JCCs to consider periodic adjustments to the dollar figure, as it erodes relative to the judicial salary". YG submits that establishing a percentage-based or formula-based relationship for remuneration is against public interest as it eliminates periodic compensation reviews by an independent Commission and would require automatic increases without evidence-based assessments about whether increases are warranted, fair or reasonable.

49. The use of the concept of "erosion" is therefore inappropriate in this context, as it implies that the Government is imposing a financial loss or decrease on the Judiciary, when in fact the effects of ordinary inflation do not establish that compensation is inadequate or non-competitive. As stated in YG's principal Submission, YG supports increases to judicial compensation in order to align with other jurisdictions and to reflect the responsibilities of the position—it does not make its submissions on the basis of a perceived "erosion", and the Commission should not adopt percentage-based or formula-based mechanisms on that basis either.

VI. The Pension/Annuity Difference is not a Proper Basis for a Northern Allowance

A. The Judiciary's Argument

50. The Judiciary's Submission at paragraphs 75–81 advances an argument, in support of both the Northern Allowance and the "build a strong court" factor, based on the difference in pension and career-structure benefits between federally-appointed judges and TCJs. The Judiciary notes, *inter alia*, that:

(a) Federally-appointed judges accumulate a full annuity over 15 years of service at an accrual rate of 4.4% per annum, whereas Yukon TCJs require 23.3 years at a 3% accrual rate;

(b) The federal annuity is calculated on the salary at the moment of retirement, whereas the Yukon TCJ pension uses the average of the two highest consecutive years of salary; and

(c) Federally-appointed judges may elect supernumerary status after 15 years of service (sitting two-thirds time while their annuity accrues based on salary at full retirement), whereas no similar program exists for TCJs.

51. The Judiciary argues that this difference in pension will cause qualified candidates to prefer appointment to the Supreme Court of Yukon over the Territorial Court, harming the Territorial Court's ability to attract the best-qualified applicants.

B. YG's Response

52. YG submits that the pension/annuity difference argument is not a proper basis for the proposed $12,000 Northern Allowance, for three reasons.

53. *First*, the argument conflates pension design and career-progression opportunities (annuity accrual rates, calculation methodology, and supernumerary status) with northern living costs. The pension/annuity difference identified by the Judiciary has nothing whatsoever to do with northern living costs. A $12,000 annual cash Northern Allowance is neither a rational nor a proportionate response to a structural difference in pension design between the territorial and federal judicial compensation regimes.

54. *Second*, the pension and annuity terms for TCJs are matters of statute, governed by the *Territorial Court Judiciary Pension Plan Act*. The Judiciary has not raised a discrete proposal before this Commission to amend the pension accrual rate, the calculation methodology, or to establish a supernumerary program for TCJs. The pension difference, even if accurately described, is not evidence that current TCJ salary and allowance levels are inadequate to attract or retain qualified candidates for appointment to the Territorial Court. As reflected in YG's Submission, Yukon TCJ salaries are already the third highest

in Canada, and there is no evidence before this Commission of any actual recruitment or retention difficulty.

55. *Third*, the difference between Territorial Court and Supreme Court pension packages is not a basis for grafting onto TCJ compensation an annual $12,000 cash Northern Allowance modeled on a federal allowance that, as addressed in Part II of this Reply, is paid to judges holding a fundamentally different, federally-appointed office. The Commission should not conflate these different matters.

VII. A Stable Financial Outlook Does Not Establish Entitlement to Additional Compensation

A. The Judiciary's Reliance on Yukon's Financial Outlook

56. The Judiciary's Submission comments on Yukon's stable and modest financial outlook (see paragraphs 52–58) in support of its compensation proposals.

B. YG's Response

57. YG submits that this fails to account for the fact that Yukon's financial outlook also reflects financial constraints and significant uncertainties, including forecasted deficits, increasing net debt, and a request for an increased federal borrowing limit, as reflected in the Government's own Fiscal Outlook referenced at paragraphs 53–54 of the Judiciary's Submission.

58. The Government recently indicated that an increase to the debt cap is dependent upon proof of prudent fiscal management, including control over spending and cost-cutting measures alongside needs for critical health care spending[1]. In light of these fiscal concerns, sizeable increases to remuneration for YG employees, even if a very small group, that fails to consider the current context of forthcoming measures to reduce spending across Government may be heavily scrutinized by the public.

[1] https://yukon-news.com/2026/07/24/federal-government-demands-debt-plan-before-considering-yukon-debt-cap-increase/

59. The Judiciary's Submission seems to conflate capacity to pay with entitlement to receive versus increasing remuneration based on objective criteria and other justification.

60. Stated simply, the fact that the Government may be in a stable financial position does not, by itself, justify additional compensation. Governments face significant competing demands, including social programs and healthcare, and how a government prioritizes its finances among these demands is properly a matter of public debate. The Government being, for the short term, in a stable financial position does not constitute a basis for TCJs or JPs to claim entitlement to additional compensation, such as the proposed Northern Allowance or similar increases.

VIII. Conclusion

61. For the foregoing reasons, and in addition to the positions advanced in YG's Submission, the Government respectfully requests that this Commission:

(a) Give no weight to the Nunavut Court of Justice comparator, whether for purposes of the Northern Allowance proposal or for salary-ranking purposes, on the basis that Nunavut's single merged court is structurally and functionally equivalent to Yukon's Supreme Court—not to the Territorial Court—and its compensation figures are therefore inapt as a comparator for TCJs;

(b) Give no weight to Nunavut as a comparator jurisdiction for TCJ or JP compensation, on the basis that Nunavut is not among the comparator jurisdictions listed in section 19(e) of the TCA;

(c) Decline to treat the Judiciary's assertion that TCJ workload is comparable in complexity to that of federally-appointed justices as established, in the absence of any evidentiary basis for that assertion;

(d) Reject the Judiciary's characterization of the 2005 LOU as a Government document, and its characterization of the Government as controlling the JCC process;

(e) Decline to adopt percentage-based, formula-based or “erosion”-driven compensation mechanisms, on the basis that ordinary inflation does not establish that compensation has become inadequate or non-competitive;

(f) Reject the pension/annuity-based argument as a basis for the proposed Northern Allowance, on the basis that pension design differences do not justify a cash Northern Allowance and there is no evidence of actual recruitment or retention difficulty; and

(g) Decline to treat Yukon’s stable financial position as establishing an entitlement to additional compensation on the basis that the Commission’s task is to determine what compensation is appropriate, not what it appears the Government can afford.

62. YG relies on the balance of its July 17, 2026 Submission for all other matters at issue before the Commission.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: July 29, 2026

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