

INTERAGENCY PROCEDURES HANDBOOK

BETWEEN

BUREAU OF INDIAN AFFAIRS

AND

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

**MANAGEMENT OF TRUST FUNDS DERIVED FROM
ASSETS AND RESOURCES
ON TRUST AND RESTRICTED INDIAN LAND**

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A STATUTORY AUTHORITY

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994
(REFORM ACT), PUB. L. 103-412, OCTOBER 25, 1994, CODIFIED AT 25 U.S.C.
§§ 161(A) AND 162(A), AND 25 U.S.C. §§ 4001 *ET SEQ.*

**B MOU - BUREAU OF INDIAN AFFAIRS AND OFFICE OF TRUST
FUNDS MANAGEMENT (MARCH, 2002)**

**C MOU - BUREAU OF INDIAN AFFAIRS AND OFFICE OF TRUST FUNDS
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**E PROCEDURES FOR ASSIGNING INDIVIDUAL INDIAN MONEY ACCOUNT
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**F SUPERVISED INDIVIDUAL INDIAN (IIM) MONEY ACCOUNTS:
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G KENNERLY LETTER

LIST OF ACRONYMS

The following list of acronyms are commonly used in this Handbook:

ACH	Automated Clearing House
ADM	Attorney Decision Maker
AKA	Also Known As
ALJ	Administrative Law Judge
BIA	Bureau of Indian Affairs
CFR	Code of Federal Regulations
DOD	Date of Death
DOI	Department of the Interior
E-FOIA	Electronic Freedom of Information Act
EFT	Electronic Funds Transfer
ETA	Electronic Transfer Account
FFS	Federal Finance System
FOGRMA	Federal Oil and Gas Royalty Management Act
FOIA	Freedom of Information Act
FRC	Federal Records Center
FTSO	Financial Trust Services Officer
GRS	General Records Schedule
IARM	Indian Affairs Records Management Program
IIM	Individual Indian Money
IPAC	Intra-governmental Payment and Collection System
IRMS	Integrated Records Management System
IRS	Internal Revenue Service
ISSDA	Indian Service Special Disbursing Agent
LTRO	Land Titles and Records Office
MSW	Masters of Social Work

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NARA	National Archives and Records Administration
OF	Optional Form
OHA	Office of Hearings and Appeals
OMB	Office of Management and Budget
OST	Office of Special Trustee for American Indians
OTFM	Office of Trust Funds Management
OTR	Office of Trust Records
RDRS	Royalty Distribution and Reporting System
SF	Standard Form
SSA	Social Security Administration
SSI	Supplemental Security Income
TFAS	Trust Funds Accounting System
TFM	Treasury Financial Manual
TGA	Treasury General Account
TIN	Taxpayer Identification Number
USC	United States Code
VA	Veteran's Administration

CHAPTER 1 GENERAL PROVISIONS (PREAMBLE)

Purpose. The federal government primarily through the Department of the Interior (DOI) acts as trustee for tribes and individual Indians and Indian lands, as well as resources and lands held in trust or restricted status or as restricted assets. Consequently, the BIA is responsible for natural resource management, maintaining Indian land titles, and maintaining and updating lease ownership information. The BIA is also responsible for providing services to individual Indians. These services may include assistance with the financial management of Individual Indian Money (IIM) accounts and the distribution of judgment funds.

The Office of the Special Trustee for American Indians (OST) was created pursuant to the American Indian Trust Management Reform Act of 1994 (Trust Reform Act), Pub. L. 103-412 and the Secretarial Order 3197 of February 9, 1996 to perform all financial trust service functions for Indian trust funds. The OST is charged with the responsibility for overseeing and coordinating Departmental reforms of practices relating to the management and discharge of the DOI's trust responsibilities to Indian tribes and individual Indians. The Office of Trust Funds Management (OTFM), an office within the OST, is responsible for accounting for and reporting trust fund balances, providing adequate controls over receipts into and disbursements from accounts, investing trust funds consistent with Departmental policies and applicable laws, and paying interest to account holders.

This Handbook sets forth the procedures for cooperation and coordination between the BIA and the OST for the management of Indian assets and resources held in trust or restricted status by the United States. It provides the framework and specifies the procedural arrangements by which the BIA and the OST will carry out their trust functions.

This Handbook is based on those principles that recognize the role of Indian tribes as owners and governing entities having authorities and responsibilities for the development and administration of Indian resource programs. It also recognizes the role of the BIA as representative of the Department in the Federal-Indian trust relationship and its role as the regulatory and management authority for trust assets on Indian lands. The Handbook recognizes the OTFM's role with respect to accounting and financial management of the trust fund accounts and the Office of Trust Record's (OTR's) role in implementing procedures to preserve and manage trust records in accordance with the Federal Records Act. The Handbook also recognizes the role of the Special Trustee in providing oversight to ensure that all improvements are coordinated among the various offices and that mandated reforms are accomplished.

This Handbook discusses only the coordination and consultation necessary between two DOI agencies related to trust asset and resource management. It does not specifically address all the coordination and consultation that must occur between each specific agency and the Indian landowner and beneficiaries. These procedures are not regulations but are intended to provide administrative guidance to DOI personnel in carrying out their responsibilities. Agencies and their personnel are expected to follow these procedures while acting in their official capacity as

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federal officials. Employees may be held accountable for their failure to follow procedures detailed in this Handbook. Other detailed procedures specific to certain aspects of the agency program functions will be the responsibility of the BIA and the OST.

This Handbook is not legally binding on tribes that contract or compact federal trust programs, except as specifically agreed to by a tribe and the agency or otherwise required by law. However, this Handbook may be used by those tribes that contract or compact realty programs, social services or IIM functions. This Handbook will be supplemented and amended as necessary.

Interpretation of this Handbook. The Department intends for these procedures to be consistent with all final regulations that pertain to the management of trust funds derived from assets and resources on trust and restricted Indian land. In the event of any conflict between any provision or interpretation of this Handbook and any provision of the Trust Reform Act or all applicable statutes and applicable regulations, the law and regulations shall govern. Any issues not addressed by this Handbook shall be administered consistently with the Trust Reform Act and applicable regulations. The Department does not intend for this Handbook to reinterpret the provisions of the Trust Reform Act or relevant regulations. This Interagency Handbook is intended solely for the guidance for employees of the Department of the Interior. It does not constitute rule-making by the Department and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person.

Finally, all federal officials administering the Trust Reform Act (see Appendix A), the applicable regulations, and these procedures will act in accordance with the letter, spirit, and intent of the Trust Reform Act, the regulations, and the policy statements contained therein, as well as in accordance with their responsibilities as federal officials, and will be accountable for their actions.

Incorporation of the Trust Reform Act and Regulations. The Trust Reform Act is incorporated into this Handbook. Any amendments to the Trust Reform Act that are subsequently enacted into law shall automatically become part of this Handbook, immediately upon their effective date without the need for further action by the DOI. Any regulations affecting trust assets of tribal or individual Indian accounts also are incorporated into this Handbook.

The Handbook does not change, and shall not be read as changing, any provisions of the Trust Reform Act or the regulations. In this Handbook references to the Trust Reform Act and the regulations will only be made by citation or by verbatim recitation.

Replacement. This Handbook replaces provisions of previous procedural directives, instructions or manuals regarding trust fund management issued by the BIA and the OST, unless they are consistent with the Trust Reform Act, regulations, or this Handbook.

Authority. This Handbook is issued jointly by the Assistance Secretary-Indian Affairs and the Special Trustee under the authorities of the BIA and the OST.

CHAPTER 2 DISTRIBUTION AND REVISION

Distribution. The Handbook will be distributed to employees of the BIA and the OTFM responsible for the management of trust assets and resources. Any federally-recognized Indian tribe or tribal organization that has contracted or compacted trust functions will be provided with a copy of the Handbook upon request. The Handbook will also be available in electronic form on the BIA and the OST web-sites. Distribution of revised Handbook pages will be in accordance with this section.

Revision.

- A. **Consultation.** The BIA and the OTFM will arrange for consultation between the staff of the two agencies before making any substantive changes to this Handbook.
- B. **Comments.** Readers who identify errors in this Handbook or have recommendations for improvements or clarifications are encouraged to forward their comments and recommendations, in writing, to either:

BUREAU OF INDIAN AFFAIRS
Office of the Deputy Commissioner
1849 C Street, NW, MS-4140-MIB
Washington, D.C. 20240

OFFICE OF TRUST FUNDS MANAGEMENT
Office of the Director
505 Marquette, NW, Suite 1000
Albuquerque, NM 87102

CHAPTER 3 DEFINITIONS

Account Holder means a tribe or an individual who owns funds in a tribal or Individual Indian Money (IIM) account maintained by the Secretary.

Account means trust fund records that are maintained by the Secretary for the benefit of a tribe or a person.

Account Name means the name on the tribal trust or IIM account. The name on the IIM account must be the legal name.

Account Holder or Payee Signature means the signature, thumb print or mark of the account holder, custodial parent, legal guardian, emancipated minor, power of attorney, person who the BIA recognizes as having control and custody of a minor, per capita recipient or other payee. The signature, thumb print or mark must be notarized by a certified and bonded notary public or witnessed by a DOI employee. The DOI witness must clearly indicate "witness," include their title and phone number, and their signature must be dated the same date as the signature being witnessed. Before the DOI employee witnesses the signature, thumb print or mark, the signer must show verifiable photo identification to the DOI employee. Signatures of unrestricted account holders who are incarcerated in a state, county or local detention facility may be certified by the detention facility warden or other official pursuant to state law. Signatures of unrestricted account holders who are incarcerated in a federal facility may be certified by a federal prison warden, superintendent, or other federal prison official under section 4004 of Title 18, Oaths and Acknowledgments.

Administrative Error means an error by the BIA or the OTFM that may result in an erroneous deposit into an IIM account, a disbursement to an account holder or a disbursement to a third party on the account holder's behalf.

Administrative Law Judge (ALJ) means an employee of the Department of the Interior's Office of Hearings and Appeals (OHA) upon whom the Secretary has conferred the authority to conduct hearings in accordance with 43 CFR Part 4 Subpart D.

Administratively Restricted Account means an IIM account that is temporarily restricted by the OTFM where an account holder's current address of record is unknown or where more documentation is needed to make a distribution from an account.

Adult means an individual who has reached 18 years of age, except when the individual's tribe has determined the age for adulthood to be older than 18 for access to tribal trust fund per capita proceeds.

Adult in Need of Assistance means an individual who has been determined to be "incapable of managing or administering his or her own property, including his or her financial affairs" either

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through a(n):

- (1) BIA administrative process that is based on a finding by a licensed medical professional or licensed mental health professional; or
- (2) Order or judgment of a court of competent jurisdiction.

Agency means the agency or field office or any other designated office in the BIA having jurisdiction over trust or restricted assets. For purposes of this Handbook, this term also means any office of a tribe which has contracted or compacted a DOI trust function.

Appeal Bond means a type of bond that guarantees payment of an amount that may be owed after the completion of an appeal process.

Approving/Approval means the action taken by BIA to approve a lease, permit, or other trust transaction.

Assign/Assignment means to transfer rights and other obligations by contract (e.g., in a lease or permit for use of trust land or resources) to an individual, company, corporation, partnership, or other assignee in exchange for compensation or other consideration.

Attorney Decision Maker (ADM) means an individual who reviews a probate package, determines heirs and beneficiaries, determines creditors' claims, and issues a written decision based on the record.

Beneficiary means any individual who owns a trust or restricted asset or receives an interest in a trust or restricted asset, including restricted property in a decedent's will.

Bureau of Indian Affairs (BIA) means the Bureau of Indian Affairs, Department of the Interior.

Bureau of Indian Affairs (BIA) Officer-in-Charge means BIA Regional Director, Superintendent, or Field Representative with proper delegations.

Business Day means Monday through Friday, excluding federal holidays.

Certified Collection Officer means the DOI employee authorized to receive funds and deposit the funds into a Treasury General Account (TGA).

Collection means the process of enforcing lease, permit and contract payment provisions. It does not include the duties of a certified collection officer.

Compact or Contract means an agreement between a tribe and the DOI authorized under Title I and III of the 1988 amendments to Pub. L. 93-638, 42 Stat. 208, Pub. L. 100-472 and Pub. L. 103-413.

Court of Competent Jurisdiction means a federal or tribal court with jurisdiction over the

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subject matter at issue; however, if there is no tribal court with jurisdiction, then a state court with jurisdiction.

Creditor means any individual or entity who submits a claim for payment from a decedent's estate.

Curtesy means, under applicable state law, a husband's right upon his wife's death to a life estate in the land that his wife owned during their marriage, assuming that a child was born alive to the couple.

Day means a calendar day, unless otherwise specified (such as a business day).

Deciding Official means the official with the delegated authority to make a decision on a probate matter, and may include a BIA regional director, superintendent, or field representative, or attorney decision maker (BIA deciding official), or an OHA, ALJ or other OHA designated official (OHA deciding official).

Delegated Official means the designated official or DOI employee of the Agency delegated the authority to conduct business on behalf of the agency.

Department means the Department of the Interior.

Deposits means receiving funds, ordinarily through a Federal Reserve Bank, for credit to a trust fund account.

Department of Interior (DOI) Employee means an employee of the Department of the Interior, but as used in this handbook does not include a tribal employee who performs a function under a DOI program that has been contracted (Self-Determination) or compacted (Self-Governance) under PL 93-638.

Dower means, under applicable state law, the wife's right upon her husband's death to a life estate in one third of the land that he owned in fee.

Emancipated Minor means a person under 18 years of age who is married or who is determined by a court of competent jurisdiction to be legally able to care for himself or herself.

Encumber or Encumbrance means to attach trust assets held by the Secretary with a third party claim, lien, or charge approved by the Secretary.

Encumbered Account means a trust fund account where some portion of the proceeds are obligated to another party.

Estate means the trust assets owned, including trust or restricted or trust lands or resources and funds in or owed to an IIM account, by a decedent at the time of his or her death.

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Estate Account means an account for a deceased IIM account holder.

Fee Interest means an interest in land that is owned in unrestricted fee status and is alienable by the fee owner.

Freedom of Information Act (FOIA) means the Freedom of Information Act, 5 U.S.C. § 552(b).

Guardian means a person who is legally responsible for the care and management of an individual and his or her estate. This definition includes, but is not limited to, conservator or guardian of the property. However, this definition does not apply to property subject to 25 CFR § 115.106.

Guardian of the Person means a person who is legally responsible for the care and management of the individual but does not have custody, care or management of that individual's estate.

Heir means any individual who receives an interest in trust or restricted property or resources, including trust funds from a decedent in an intestate proceeding.

Home Agency means the agency where the account holder is enrolled. If the account holder is not enrolled or is a member of more than one tribe, then the home agency will be the agency where the account holder has the strongest association.

Immediate Family means a spouse, brother, sister, lineal ancestor, lineal descendant, or member of the household of an individual Indian landowner.

Indian Land means any tract of land in which any interest in the surface estate is owned by a tribe or individual Indian in trust or restricted status.

Indian Landowner means an Indian tribe or individual Indian who owns a surface or subsurface interest in trust or restricted lands or resources (e.g., minerals, timber, etc.).

Individual Indian Money (IIM) Account means an interest bearing account for trust funds held by the Secretary that belong to a person who has an interest in trust assets. These accounts are under the control and management of the Secretary. There are three types of IIM accounts: unrestricted, restricted, and estate accounts.

Individually Owned Indian Land means any tract, or interest therein, in which the surface estate is owned by an individual Indian in trust or restricted status.

Interest means investment income received in the trust account.

Interested Party means any potential or actual heir, any beneficiary under a will, any party

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asserting a claim against a deceased Indian's estate, and any tribe having a statutory option to purchase the trust or restricted property interest of a decedent.

Intestate means a decedent died without a will.

Judgment Funds means funds awarded by the Indian Claims Commission or the United States Court of Federal Claims, and authorized and appropriated by the Congress of the United States to be used or distributed based on a plan approved by Congress.

Judgment Per Capita means a congressionally approved distribution of funds among tribal members or to individual descendants identified in a settlement or a use and distribution plan.

Judgment Per Capita IIM Account means an IIM account established for a judgment per capita.

Lease means a written contractual agreement between an Indian landowner (lessor) and a tenant (lessee), whereby the tenant or lessee is granted a right to possession of Indian land for a specified purpose and duration in exchange for compensation or other consideration.

Legal Disability means the lack of legal capability to perform an act which includes the ability to manage or administer his or her financial affairs as determined by a court of competent jurisdiction or another federal agency where the federal agency has determined that the adult requires a representative payee and there is no legal guardian to receive federal benefits on his or her own behalf.

Lessee means an individual, company, corporation, or partnership that has obtained a lease on tribal and/or Indian lands in exchange for compensation.

Life Estate means an interest in trust land or resources that is limited in duration to the life of the individual (life tenant) holding the interest or the life of some other person.

Master of Social Work (MSW) means a social worker who possesses a Master of Social Work degree from an accredited college or university.

Minor means an individual who is not an adult as defined in this Handbook.

Non Compos Mentis means a person who has been determined by a court of competent jurisdiction to be of unsound mind or incapable of managing his or her own affairs.

Office of Hearings and Appeals (OHA) means the Hearings Division, Office of Hearings and Appeals, Department of the Interior.

Office of the Special Trustee (OST) or Special Trustee means the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

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Office of Trust Funds Management (OTFM) means the Office of Trust Funds Management, within the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

Power of Attorney means an instrument authorizing a person to act as the agent of another. The power may be general or specific.

Privacy Act means the Federal Privacy Act, 5 U.S.C. § 552a.

Probate means the legal process by which applicable tribal law, state law, or federal law that affects the distribution of the decedent's estate is applied to: (1) determine the heirs; (2) approve wills and beneficiaries; and (3) transfer any funds held in trust by the Secretary for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.

Probate Specialist means the BIA or tribal employee who is trained in Indian probate matters.

Remainder means the remnant of trust land or resources created at the same time as a life estate, by the same instrument, and limited to arise immediately on the determination of that estate (property interest that passes on the death of the life estate holder).

Remainderman means an individual who is entitled to an interest in trust land or resources upon the death of the holder of the life estate in the trust land or resource.

Representative Payee means an individual appointed by the Social Security Administration (SSA) or other federal agency to act as an agent for a person who is judged incapable of directing the management of his or her federal benefits.

Resolution means the formal manner in which a tribal government expresses its legislative will.

Restricted Account means the DOI placed a restriction on an IIM account and the account holder does not have unlimited access to the account.

Restricted Fee Land(s) means land the title to which is held by an individual Indian or a tribe, and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limitations contained in the conveyance instrument pursuant to federal law.

Returned Per Capita Account means a trust account for judgment fund or tribal per capita checks that have been returned to the Secretary as undeliverable to the account holder because the individual's whereabouts are unknown or the judgment fund per capita checks were not cashed by the account holder within twelve (12) months of issuance of the check, or the checks were not issued because the individual's whereabouts were unknown at the date of issuance.

Secretary means the Secretary of the Interior (DOI) or his or her designee authorized to act on the behalf of the Secretary as to the matter at hand.

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Signature means the name, mark, or writing used with the intention of authenticating a document.

Special Deposit Account means a temporary account for the deposit of trust funds that cannot be credited immediately to the rightful account holders.

Statement of Performance means a quarterly report that identifies the source, type, and status of funds in a trust account; the beginning balance; the gains and losses; receipts and disbursements; and the ending balance.

Superintendent or Field Representative means an authorized representative of the Secretary of the Interior who is the officer in charge of a BIA agency or field office.

Supervised Account means a restricted IIM account, from which all disbursements must be approved by the BIA Officer-in-Charge, that is maintained for minors, emancipated minors, adults who are determined to be in need of financial assistance through an administrative process, adults who are under legal disability, or adults who are determined to be non compos mentis.

Testate means the decedent executed a will before his/her death.

Trespass means any unauthorized occupancy, use of, or action on trust or restricted lands or resources.

Tribal Account or Tribal Trust Account generally means a trust fund account for a federally recognized tribe that is maintained and held in trust by the Secretary.

Tribal Land means the surface estate of land or any interest therein held by the United States in trust for a tribe, nation, band, community, group or pueblo of Indians, subject to federal restrictions against alienation or encumbrance, and includes such land reserved for BIA administrative purposes when it is not immediately needed for such purposes. The term also includes lands held by the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. § 476).

Tribal Law means the body of non-federal law that governs tribal lands and activities, and includes ordinances or other enactments by a tribe, tribal constitutions, tribal court rulings, and tribal common law.

Tribal Per Capita means a distribution of tribal trust funds to individual tribal members pursuant to a tribal resolution.

Tribe means any Indian tribe, nation, band, pueblo, rancheria, colony, or community, including any Alaska Native Village or regional or village corporation as defined or established under the Alaska Native Claims Settlement Act which is federally recognized by the U.S. government for special programs and services provided by the Secretary to Indians because of their status as

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Indians. Tribe also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary.

Trust Account means a tribal account, an IIM account or a special deposit account for trust funds maintained by the Secretary.

Trust Assets means trust lands, natural resources, trust funds, or other assets held by the federal government in trust for tribes and individual Indians.

Trust Funds means money derived from the sale or use of tribal lands, restricted fee lands, or trust resources and any other money that the Secretary must accept into a trust account for deposit into trust.

Trust Land(s) means any tract or an interest therein that the United States holds in trust status for the benefit of a tribe or an individual Indian.

Trust Personality means funds in an IIM account or funds owed to a decedent's IIM account on the date of death.

Trust Reform Act means the American Indian Trust Fund Management Reform Act of 1994, Pub.L. 103-412, 108 Stat. 4239, 25 U.S.C. § 4001.

Trust Resources means any element or matter directly derived from trust or restricted property.

Unrestricted Account means an IIM account where the Indian account holder may determine the timing of and amount of disbursements from the trust account.

Use and Distribution Plan means the document submitted by the Secretary to Congress, together with all pertinent records, for the use or distribution of judgment funds.

Vendor means any individual or entity who provides goods or services to an account holder and submits a claim for payment.

Verifiable Photo Identification means a valid driver's license, a government issued photo identification card such as a passport, security badge with photograph, etc., or a tribal photo identification card. A copy of the verifiable photo identification must be attached to any request if verifiable photo identification is required.

Voluntary Hold means a request by an Indian account holder with an unrestricted IIM account to keep his or her trust funds in a trust account instead of having the funds automatically disbursed.

Will means a written testamentary document including any properly executed written modifications or revisions called codicils, that states who will receive the decedent's trust or

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restricted property.

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CHAPTER 4	SIGNATURES	PAGE	1 of 3
SUBJECT	WHAT DOES MY SIGNATURE ON TRUST DOCUMENTS MEAN?	SECTION	4-1

EFFECTIVE DATE July 8, 2002

REVISION DATE

Background. This section discusses the BIA and the OTFM responsibilities regarding approving and certifying trust program transactions. It is the BIA's responsibility to approve accurate trust transactions (i.e., contracts, deeds, etc.) and to certify the accuracy of the corresponding payment transaction and requests for disbursement (i.e., collection, allocation, deposit, withdrawal, transfer or disbursement). The BIA shall submit to the OTFM a copy of the relevant pages of the approved trust transaction, as detailed in subsequent chapters, and the certified payment transaction and requests for disbursement. It is the OTFM's responsibility to verify the accuracy of the BIA submissions and to process payment transactions and requests for disbursements in accordance with submitted instructions. Approval or disapproval of the transaction is based on a review of available supporting documentation and payment data.

BIA Official's Signature indicates his/her certification of the accuracy of the data utilized in support of the request submitted to the OTFM for deposit, withdrawal, transfer or disbursement of funds to or from a tribal or IIM account and, where necessary, verifies that relevant documents are signed by the proper tribal officials. All employee signatures must include the employee's title and business phone number.

OTFM Official's Signature indicates his/her approval to process the request submitted by the BIA for deposit, withdrawal, transfer or disbursement of funds to or from a tribal or IIM account. The OTFM approval of the processing of payment transaction and/or requests for disbursement is contingent on the accuracy of documentation supporting the payment transaction and/or requests for disbursement. All employee signatures must include the employee's title and business phone number.

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. BIA Officer-in-Charge <u>approves</u> the trust program transactions by signing the contracts, deeds, rights of way, etc. 2. BIA Officer-in-Charge <u>certifies</u> the accuracy of documentation supporting and/or justifying his/her request to process the corresponding payment transactions or requests for disbursement.

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3. Submit to the OTFM a copy of the relevant pages of the approved trust transactions and the certified payment transactions or requests for disbursement for OTFM approval and processing.

OTFM

1. Receive and review the certified payment transaction or request for disbursement to ensure it meets the OTFM guidelines and a copy of the corresponding approved trust transaction from the BIA.

NOTE: Below are the thresholds for approval authority:

<u>Dollar Threshold:</u>	<u>Approving Official:</u>
Up to \$10,000	IIM Account Technicians
Up to \$100,000	Trust Accountants
*Up to \$10,000,000	Division Chiefs, Financial Trust Service Officers, and Tribal Account Managers
Unlimited	Director and Deputy Director

*With concurrence of the Director or Deputy Director or designated staff for payments exceeding one (1) million dollars.

2. Approving official approves and forwards the approved trust transaction to the OTFM Central Office (Albuquerque, NM) for processing.
3. Approving official shall return to the BIA Officer-in-Charge within the established time frames any disapproved trust fund transactions (i.e., request for a check disbursement time limit not to exceed three (3) business days).
4. The OTFM Central Office will notify the OTFM approving official of a disapproved trust fund transaction with comments within the established time frames (i.e., request

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for a check disbursement time limit of one (1) business day, account maintenance not to exceed three (3) business days, etc.).



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Background. This section discusses the BIA's and the OTFM's responsibilities for opening a tribal trust account. The section details the circumstances necessary for opening an account, as well as specifying the minimum information needed from a tribe to process the request.

Cross Reference. 25 CFR §§ 115.700-115.702, 115.800

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Initiate the procedures to open a tribal account when funds are received and a tribal account does not exist. Only the types of funds described in 25 CFR § 115.702 will be accepted to open a tribal trust account.
OTFM	<ol style="list-style-type: none"> 1. Open an account upon request from the BIA or upon verification of need. Ensure funds type may be accepted into the trust system as outlined in BIA step-1 above. If the funds type cannot be accepted into the trust system, work with the appropriate staff including, but not limited to, the OTFM Director's Office and the Office of the Solicitor to re-direct the funds as appropriate. If funds may be accepted into the trust system, then post funds to the new tribal trust account. 2. Request from the tribe the names, titles and addresses of individuals who are to receive statements of performance for the new tribal trust account(s). The OTFM will mail statements on a monthly basis. Upon the request of the tribe, the OTFM will work with a tribe to provide statements on a different schedule. 3. Request from the tribe a tribal resolution that identifies the names and titles of individuals authorized to: <ol style="list-style-type: none"> a. Initiate deposit of trust funds into the tribal trust account; b. Request withdrawals or transfers of trust funds from the tribal trust account; and

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- c. Provide tribal investment instructions. The OTFM retains discretion to invest the funds in specific securities. Upon receipt, the funds will be invested in the overnight government money market pending longer term investment instructions from the tribe.
 4. Forward a copy of the tribal resolution(s) described in OTFM step-3 above to the appropriate BIA officials.
 5. File the information received in OTFM steps-1 through 3 above in the appropriate tribal folders.
-

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SUBJECT	BUDGETS	SECTION	5-2

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Background. This section discusses the BIA's and the OTFM's responsibilities regarding the preparation, modification, and use of annual tribal budgets or portions thereof governing the expenditures of tribal trust funds. A tribal budget supporting the use of tribal trust funds is not mandatory unless it is a requirement set forth in statutory language, congressional directives, court orders, court approved settlements, settlement agreements, use and distribution plans, regulations, or bond or loan payments. However, it is recommended that a budget be prepared, even if it is not required, to mitigate the risk of incurring a loss due to the sale of a security prior to its maturity to meet the cash flow needs of the tribe.

Cross Reference. 25 CFR §§ 115.807-115.809, 812-115.817

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Upon tribal request, or upon Congressional direction, the Secretary will work with the tribe in the preparation of a tribal budget or tribal budget modification for the use of tribal trust funds. The BIA will also work with the tribe to ensure that the tribe develops the appropriate tribal resolution that approves the budget. 2. Accept submissions of annual budgets or budget modifications for the use of tribal trust funds and forward copies of the documents to the OTFM. The submission must include the appropriate tribal resolution that approves the budget. 3. Upon notification from the tribe that anticipated cash flows will not reasonably support the budget or budget modification(s), work with the tribe to make appropriate adjustments and forward the modification(s) to the OTFM.
OTFM	<ol style="list-style-type: none"> 1. Receive directly from the tribe or from the BIA the proposed tribal budget or budget modification(s) with the tribal resolution attached.

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2. Within thirty (30) days of receipt of a tribal budget or budget modification:
 - a. Review the budget or the budget modification(s) in order to determine the reasonableness of the budget in terms of estimated investment income and anticipated future deposit(s) into the tribal trust account.
 - b. Acknowledge the tribal budget* and send a notice of acknowledgment to the tribe and the BIA if cash flows will reasonably support the tribal budget or the budget modification(s). The notification to the BIA must include a copy of the budget or the budget modification(s).

*NOTE: For purposes of this section, the OTFM acknowledgment of the budget means the:

1. Funds are being expended in compliance with any laws or settlement agreements; and
 2. Investments in the account will support the proposed expenditures.
- c. Return the tribal budget and/or modification(s) to the tribe with an explanation of need for changes if:
 1. Funds are not being expended in compliance with applicable laws or settlement agreements, or
 2. Cash flows will not reasonably support the budget or the budget modification(s). A copy of this document should be sent to the BIA so that the BIA is aware of the potential problem(s) with the budget.
3. Following acknowledgment of a tribal budget and/or modification(s) and receipt of any investment instructions from the tribe, develop and implement prudent investment strategies to meet the tribal needs.
 4. Forward a copy of the acknowledged budget to the BIA for use when processing the disbursement requests.
 5. File the acknowledged budget and/or modification(s) and

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investment instructions, if any, in the appropriate tribal folders for reference.

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SUBJECT	USE AND DISTRIBUTION PLANS OR OTHER PLANS REQUIRED	SECTION	5-3

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Background. This section discusses the BIA's and the OTFM's respective roles in the preparation and the approval of use and distribution plans required by statutory language, congressional directives, court orders, court approved settlements, settlement agreements, regulations, or bond or loan payments.

Cross Reference. 25 CFR §§ 115.806(a) & (b), 115.812-115.817
25 CFR Part 87; 25 USC § 1401

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Assist the tribe in the development of the use and distribution plan (or other requirement) when the tribe requests assistance or when such assistance is directed by Congress, statute or court order. 2. Accept submitted use and distribution plans (or other requirement) for the use of tribal trust funds. The submission must include an attached tribal resolution. 3. Act on the proposed use and distribution plans (or other requirement) within the time period established by Congress, statute, or court order, or within thirty (30) days of receipt when no time period has been established and: <ol style="list-style-type: none"> a. Work with the tribe to make any necessary corrections to the plan (or other requirements) if the plan is not approved by the BIA; or b. Forward the plan to Congress for approval (if required) after the BIA approves the plan (or other requirement); and c. Notify the tribe of the approval; and d. Forward a copy of the plan (or other requirements) approved by the BIA and Congress (if needed) to the OTFM with a copy of the tribal resolution attached. 4. File a copy of the approved plan (or other requirements) and the tribal resolution.
OTFM	<ol style="list-style-type: none"> 1. Receive the approved use and distribution plan (or other

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requirements) and the attached tribal resolution from either the BIA or directly from the tribe.

2. File a copy of the approved plan (or other requirements) and the attached tribal resolution in the appropriate tribal folder.

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SUBJECT	UNCLAIMED TRIBAL PER CAPITA PAYMENTS	SECTION	5-4

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Background. This section provides the procedures for processing uncashed, returned tribal per capita payments, or payments that were not mailed due to an invalid address at the time of issuance. Per capita payments due to individuals whose whereabouts are unknown will be transferred to a "returned per capita account." (Per capita funds due to account holders with supervised accounts must be deposited into their IIM account even if the account holder's whereabouts are unknown.) Per capita payments will be made as individuals are located. After an account holder is located, a check will be issued for the appropriate per capita payment(s) owed to the account holder with applicable interest. If the whereabouts of the intended recipient(s) remain unknown for a period of six (6) consecutive years, the tribe may apply to have the funds returned to the tribe pursuant to 25 USC § 164, Pub. L. 87-283, § 1, Sept. 22, 1961, Stat. 584. This law applies to both judgment per capita and tribal per capita payments. The six (6) year time frame does not begin to run for minor per capita recipients until they reach the age of majority. If within the six (6) year time frame, a current address for the individual per capita recipient is received by the OTFM, the per capita payment will be made with applicable interest. A statement of performance for the returned per capita account is sent to the tribe.

Cross Reference. 25 CFR §§ 115.818-115.820

Procedure.

Responsibility	Procedure
BIA	1. Take reasonable action to locate the individuals entitled to receive the per capita funds by utilizing electronic search tools and working with the OTFM and the tribe. Provide instructions to the OTFM to reissue per capita payments to the respective individuals with applicable interest by completing standard form 1034 (SF-1034) and forwarding the form to the OTFM. See section 5-5.
OTFM	1. Post any uncashed per capita payments to the returned per capita account after the Treasury credits the funds to the OTFM or at the time of issuance for recipients lacking valid addresses. Deposit any per capita payments that have been returned as undeliverable and post the funds to a returned per capita account where the funds will be held until the tribal

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member is located.

2. Notify the tribe of the names of tribal members whose checks have been returned or whose whereabouts were unknown at the time of issuance. Provide further explanation to the tribe that the proceeds will be credited to the returned per capita account and the tribe will receive a statement of performance for that account.
3. Take reasonable action to locate the individuals entitled to receive the per capita funds by utilizing electronic search tools and working with the BIA and the tribe.

NOTE: If the whereabouts of the intended recipient is unknown for a period of six (6) consecutive years, the tribe may apply under 25 USC § 164, Pub. L. 87-283, Stat. 584 (1961), to have the unclaimed per capita payments and the applicable interest earned returned to the tribe. However, before funds are disbursed to the tribe, the tribe must show that diligent efforts have been made to locate the intended recipient of the funds.

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SUBJECT	TRIBAL REQUESTS FOR WITHDRAWALS OF FUNDS	SECTION	5-5

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Background. This section discusses the BIA's and the OTFM's responsibilities as they relate to requests for withdrawals (including transfers) of trust funds from tribal trust accounts. For withdrawals pursuant to 25 CFR Part 1200 (The American Indian Trust Fund Management Reform Act of 1994), forward all documents to the OTFM for processing. All other tribal requests for withdrawals or transfers must include a properly completed standard form 1034 (SF-1034) or BIA-4285 (for transfers to supervised and estate accounts for example) and an attached tribal resolution authorizing the transaction. The BIA's signature on the disbursement or transfer request indicates that the disbursement complies with all applicable laws and requirements, the use and distribution plan and related budgets, and is signed by the properly authorized tribal officials. The BIA must approve by signature all disbursement requests from judgement fund accounts. The BIA must review all disbursement requests from non-judgement fund accounts by signature acknowledgment. Disbursement or transfer transactions will be reflected on the statement of performance.

Cross Reference. 25 CFR §§ 115.815-115.817; 25 CFR Part 1200
25 USC §§ 4001 *et seq.*

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none">1. Maintain a list of names of the authorizing tribal officials with their sample signatures (including a copy of the tribal resolution giving them authorization), the use and distribution plans (or other requirements) and any budgets for use as reference when approving a tribal disbursement or transfer requests.2. Forward to the OTFM immediately all documents received for withdrawals or transfers under 25 CFR Part 1200. All other written withdrawal or transfer requests (SF-1034 and/or BIA-4285) submitted by the tribe must contain:<ol style="list-style-type: none">a. The signatures of the proper authorizing tribal and BIA official(s);b. The amount of trust funds to be withdrawn or transferred;c. All documentation or information as required by applicable law in order to withdraw or transfer such

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- funds;
 - d. The tribal budget, as applicable;
 - e. The tribal resolution approving the withdrawal or transfer of a specified amount of trust funds; and
 - f. All instructions on how and where (wire or check) to send the funds or transfer the securities.
3. Review the request for completeness, accuracy and compliance with all applicable laws and any budgetary limitations. Consult with the Office of the Solicitor as necessary.
 4. Notify the tribe within ten (10) business days of the receipt of the request if the request will be delayed or denied.
 5. Provide technical assistance to the tribe to address any deficiencies in the request.
 6. Approve the request by signing SF-1034 or BIA-4285, or attach a signed approval memo referencing the request stating that it is in compliance with applicable laws, plans, court orders, etc.
 7. Submit the completed and approved withdrawal and/or transfer package to the OTFM for processing.

OTFM

1. Receive requests for withdrawals pursuant to 25 CFR Part 1200 and notify the tribes that the requests have been received and will be processed under time frames established in 25 CFR Part 1200.
 2. Receive disbursement request (SF-1034 or BIA-4285) approved by the BIA and review the request for completeness and accuracy. Requests must comply with all applicable laws, plans, budgets, etc. and contain all required approval signatures. See BIA step-2 above.
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3. Review system balances to ensure that there are sufficient funds for the amount of the withdrawal. Disbursement requests will not be processed if releasing the funds will result in an overdraft.
 4. Notify the tribe and the BIA within ten (10) business days of the receipt of the request if the request will be delayed or denied.
 5. Provide technical assistance to the tribe and the BIA as appropriate to address any problems with the request.
 6. Process requests for disbursements within one (1) business day after receipt of all necessary documents and approvals. Process requests for free deliver securities within three (3) business days.
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SUBJECT	UNCASHED, LOST, STOLEN OR DAMAGED TREASURY CHECKS	SECTION	5-6

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Background. It is the practice of the OTFM, when possible, to electronically transfer funds to a tribe's non-trust account per the tribe's instructions. However, the OTFM does, and will continue, to make distributions through Treasury checks. A Treasury check is negotiable for one (1) year from the date printed on the check. If the Treasury check is not cashed within one (1) year of the check being issued, the check will be canceled by the U.S. Department of the Treasury, and through the Intra-governmental Payment and Collection (IPAC) system, canceled check amounts will be returned to the OTFM and posted to the appropriate account. Treasury often takes an additional three (3) months after canceling the check to issue a credit to the OTFM. The entire process from check issuance to final crediting to the account takes approximately fifteen (15) months if a stop-payment request has not been processed. This process is referred to as "Limited Payability Cancellation." A Treasury check may also be lost, stolen or damaged. In these instances, the check can be canceled and the amount reissued. If the check that was lost, stolen or damaged is older than one (1) year, then the check has already been canceled by the Treasury through a Limited Payability Cancellation as explained above. If a check that had been reported lost, canceled and re-issued is cashed, Treasury will issue the OTFM a payment over cancellation. A payment over cancellation is similar to a debit voucher issued by a bank. It withdraws the funds from the OTFM that were previously credited when the check was canceled. The OTFM then has to book a disbursement to the account from which the original check was drawn. This second disbursement can result in an overdraft or a depletion to the accounts that belongs to other per capita recipients whose whereabouts are unknown. Therefore, when a check cancellation/stop payment is requested, the payee must certify in writing that he or she will not cash the first check if it is found and will return the first check to the closest OTFM office either in person or by certified mail. Also, it is important to understand that canceling a check will not prevent it from being cashed as private sector banks cannot determine whether a check has been canceled by Treasury.

Cross Reference. 25 CFR §§ 115.819-115.820

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Requests for cancellations of checks should be referred to the OTFM. <p>NOTE: Instances of, or apparent instances of, check fraud, corruption, and abuse activities should be immediately reported to the OTFM with all supporting documentation.</p>

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2. Approve check re-issuance requests by signing (approving) the SF-1034 or BIA-4285 (supervised account holder transfers). The SF-1034 must include the payee name and address (see sections 5-5 and 6-4). The tribe is not required to sign the re-issuance SF-1034/BIA-4285 or submit another copy of the resolution as the original per capita payout documentation should be filed in the appropriate tribal folder.

OTFM

1. Receive requests to cancel checks that were lost, stolen or damaged and:
 - a. Determine if the check was issued more than one (1) year prior to the current date. If the check was issued more than one (1) year prior to the current date, proceed to the OTFM step-2. If the check was issued within one (1) year of the current date, proceed to the next step.
 - b. Obtain a written statement from the payee that states the requester/payee will not cash the first check and will return the check to the OTFM. Requests must be signed by the requester/payee (see definition of account holder or payee signature).
 - c. Process requests by completing a Standard Form-1184 (SF-1184) and entering it into the Treasury's PACER System. If the check has not been negotiated, proceed to OTFM step-4. If the check is negotiated, proceed to OTFM step-3.
 2. If the requests are received to cancel checks that were issued one (1) year or more prior to the current date:
 - a. Determine if the check was canceled through the Limited Payability process or if the check was negotiated by accessing Treasury's PACER System.
 - b. If the check was canceled through the Limited Payability process, locate the account with credit/funds and proceed to OTFM step-5.
 - c. If the check is negotiated, proceed to OTFM step-3.
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3. If the check was negotiated, and:
 - a. It is one (1) year or less from the date the check was issued, Treasury will provide:
 - i. A copy of the negotiated check to the requester/payee; and
 - ii. The claim form to the OTFM to provide to the requester/payee. Assist the requester/payee in completing and filing the claim form with Treasury.
 - b. If it is more than one (1) year from the date of check issuance, provide requester/payee with a copy of the negotiated check and upon request provide assistance to the requester/payee in contacting the proper investigatory officials.
 4. Post funds received from Treasury for canceled checks to the appropriate account.
 5. After funds are received from Treasury for any canceled checks, re-issue the checks upon receipt of a properly completed SF-1034 or BIA-4285 (see section 5-5).
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Background. This section discusses IIM accounts in general, how they are established, what types of funds may be placed into an IIM account, and what documentation is necessary to establish an account. Generally adults have only one IIM account. A second account will be established if the account holder has an interest in a life estate. Adults whose accounts are supervised and minors may have more than one account if they have lease income and are also entitled to a tribal or judgment per capita payment or an interest in a life estate.

Accounts: Accounts are established for individuals who have an interest in income producing trust assets. All accounts must be established using legal names. Any changes to account names once an account is established must be based on legal documentation. The OTFM and the BIA must exchange the legal documentation for name changes so that respective systems (TFAS, IRMS, TAAMS, etc.) reflect the same names. "Also Known As"(AKA) names can be added to the account record with supporting documentation to use for informational purposes. If an account is established with only the minimum information (see BIA step-1), the OTFM will not be able to process disbursements, mail statements of performance, or mail tax information to the account holder. The OTFM will forward all tax information to the IRS. When an estate distribution includes both lease funds and judgment funds, those monies may be commingled into one lease account.

Voluntary Holds and Deposits: Individuals may leave funds on deposit in their IIM accounts indefinitely (a voluntary hold), unless the account holder is non-Indian (life estate and forestry accounts-fee interests). If an account holder wants to leave their funds on deposit in their IIM account, the account holder must make an affirmative request for a voluntary hold. Funds in non-Indian life estate accounts and fee interest forestry accounts will be disbursed as soon as the account reaches the pre-determined threshold or as required by the document creating the life estate. An account holder may not deposit funds into an IIM account or redeposit money into an IIM account once the funds have been withdrawn from the account. However, an account holder may redeposit funds withdrawn from the account if the BIA or the OTFM erroneously disbursed the funds.

Estate Accounts: Generally, it is the OTFM's responsibility to ensure that required documentation is on file for an IIM account. The BIA should assist the OTFM with collecting required documentation and information. The exception to this general rule is for supervised accounts. The BIA must provide appropriate documentation to the OTFM, including but not limited to addresses and names of custodial parents and guardians. If it is determined that a deceased account holder has heirs, but it cannot be established how many heirs exist or what their names are, the estate account will remain open until a final order is received.

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Tribal Per Capita: If a tribal resolution states that tribal per capita dollars are to be managed under IIM regulations (there are no restrictions on the use of these dollars) the tribal per capita dollars may be commingled with existing lease account funds for supervised account holders. If a tribal resolution restricts the use of funds, a separate account will be opened for individuals whose accounts are supervised. For tribal per capita payments, an IIM account will be established to receive the single tribal per capita payment that was issued subsequent to the individual's death. When tribal per capita payments are made to supervised account holders, the funds will be deposited into an IIM account or a new IIM account will be established as appropriate, including those supervised account holders whose whereabouts are unknown. Tribal per capita funds for unsupervised account holders whose whereabouts are unknown must be posted to a returned tribal per capita account pending the location of a valid address for the recipient.

Judgment Per Capita: Judgment per capita IIM accounts must be established for individuals whose accounts are supervised (minors, adults *non compos mentis*, adults in need of assistance) including those individuals whose whereabouts are unknown. An IIM account must be established for judgment per capita payments for individuals who were entitled to the payment but die prior to issuance. The judgment per capita payment cannot be commingled in an existing lease account. Multiple judgment per capita payments to an individual may be commingled in a single judgment per capita account if the prescribed uses for the funds are consistent.

Cross Reference. 25 CFR §§ 115.101-115.103, 115.418, 115.500-115.501, 115.701-115.702

Procedure.

Responsibility	Procedure
BIA and OTFM	1. Initiate the procedures to open an IIM account when funds are received and an IIM account does not exist. Only the types of funds described in 25 CFR § 115.702 will be accepted into the trust system.
BIA	1. Provide the following information/documents to the OTFM. An asterisk (*) indicates that the particular item is information that <u>is required</u> to establish an account: <ol style="list-style-type: none"> a. * Legal name of the account holder. b. * Receipt of all documentation that supports the

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establishment of an IIM account. Examples include but are not limited to the following:

- i. A copy of Probate Order.
 - ii. A copy of deed issued pursuant to land sale.
 - iii. A copy of Use and Distribution Plan for Judgment Per Capita accounts for *non compos mentis*, minors and adults in need of financial assistance accounts.
 - iv. The first page and signature page of a lease/contract.
 - v. The trespass notice or a notice of non-performance of the lease/contract terms.
- c. *Account number (see Appendix E).
- d. Tribal enrollment or membership certificate (ID).
- e. Completed W-9 form for non-judgment accounts or for judgment per capita accounts with funds left on deposit in a voluntary hold status after a minor account holder reaches the age of majority. A social security number may be used in the system when it is received from a certified judgment per capita roll. If a social security number is not received, interest income in the account may be subject to backup withholding.
- f. Addresses for:
- i. Statements of performance (the address of record);
 - ii. IRS reporting (the address of record unless otherwise instructed); and
 - iii. Disbursements (the address can vary).

NOTE: For supervised accounts, this information must be received from the BIA (see section 6-4).

- g. Birth certificates for minor account holders. The birth certificate is only utilized to establish birth date. It cannot be used to establish a custodial parent. The birth dates received from certified judgment per capita rolls may be used in the system for informational purposes, but birth dates must be confirmed with a birth certificate before an account holder has reached the age of majority and has unrestricted access to his or her funds.
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- h. For accounts that are to be supervised, the BIA must provide the following information:
 - i. Proof of notification (Kennerly) regarding a decision to supervise the adult account holder must be on file before the account can be placed in a supervised status.
 - ii. Guardianship Order, if applicable (mandatory if the account holder is *non compos mentis*).
 - iii. Address of record for receipt of statements of performance and for tax reporting.
 - iv. Distribution plans for disbursements. See section 8-1.

NOTE: An account will be established for a judgment or tribal per capita payment if there has been a tribal determination that the account is to be coded adult *non compos mentis* or adult in need of assistance and the individual has no existing IIM account. In order to support the continued supervision of the account, the BIA needs to request that tribes provide copies of the documentation supporting the need for supervision within thirty (30) days of the establishment of the account to verify the need for continued supervision of the account. The tribe should be notified that if the BIA does not receive this documentation, it will request that the OTFM remove the restriction.

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1. Open an IIM account upon receipt of the required documentation as outlined in BIA step-1 above.

NOTE: An example of instances where funds cannot be disbursed is when there is no:

- a. Account holder address;
 - b. Distribution instructions, or an inadequate distribution plan; or
 - c. Birth certificate on file and the minor is turning "of age"
-

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and would like unrestricted access to his or her funds.

2. Based upon the documentation received from the BIA:
 - a. Place the appropriate minor account type coding and any optional categories on the account;
 - b. Set up a name and address record;
 - c. Set up the necessary statement tickler; and
 - d. Set up all disbursement/receipt/transfer tickler(s).
3. Request a copy of any missing documentation from the account holder or the authorized representative, or when an account is supervised a copy of missing documentation must be requested from the BIA social service worker. Form OTFM 01-004, may be used for this purpose (see Appendix D).

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and would like unrestricted access to his or her funds.

2. Based upon the documentation received from the BIA:
 - a. Place the appropriate minor account type coding and any optional categories on the account;
 - b. Set up a name and address record;
 - c. Set up the necessary statement tickler; and
 - d. Set up all disbursement/receipt/transfer tickler(s).

3. Request a copy of any missing documentation from the account holder or the authorized representative, or when an account is supervised a copy of missing documentation must be requested from the BIA social service worker. Form OTFM 01-004, may be used for this purpose (see Appendix D).

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Background. This section discusses the type of IIM account information that may be released and to whom the information may be provided. This section outlines how to respond to the various inquiries received from the tribe or the public, including tribal credit programs and/or financial institutions. Heirs to estate accounts must contact the BIA Regional Director, Superintendent, or Field Representative. The procedures contained in this chapter for releasing account information do not apply to FOIA requests. All FOIA requests must be forwarded immediately to the FOIA officer. Questions about the applicability of the Privacy Act or FOIA should always be addressed to the designated Privacy Act/FOIA official and the Office of the Solicitor.

Frequently the BIA and the OTFM are contacted by parties other than account holders for release of account information. The Privacy Act states, "No record contained in a system of records may be disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains." Exceptions to protection under the Privacy Act can be found at 43 CFR § 2.56. All IIM account information is protected by the Privacy Act. The Freedom of Information Act (FOIA) cannot justify a disclosure that is barred by the Privacy Act. If a trust program is compacted or contracted, the tribe may have access to information that is covered by the Privacy Act. In that case, the information can only be used to perform the compacted or contracted functions. For example, if a tribe has compacted or contracted the Realty program and as a result has access to IIM account information (e.g., TFAS data and reports), the tribe's credit program does not have the authority to access the IIM account information.

Every agency and office should follow the same procedures. If an unrestricted account holder requests that information be released for bankruptcy proceedings, employees should comply with the request as long as the account holder's signature is notarized or witnessed by a DOI employee, and the request is specific to the information to be released. Requests for information for bankruptcy proceedings for supervised and encumbered accounts must be approved by the BIA Officer-in-Charge after consultation with and review by the Office of the Solicitor.

Cross Reference. 25 CFR §§ 115.403, 115.424; 43 CFR §§ 2.45-2.79
5 USC § 552
DOI FOIA/Privacy Act Handbook

Procedure.

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<u>Responsibility</u>	<u>Procedure</u>
BIA and OTFM	<p><u>WHO MAY HAVE ACCESS TO ACCOUNT INFORMATION:</u></p> <ol style="list-style-type: none"> 1. Account information may be provided only to authorized individuals or organizations. Examples of authorized individuals or organizations would include: <ol style="list-style-type: none"> a. The account holder; b. The account holder's custodial parent (for minors) or the guardian (for minors and supervised adults); c. Any DOI employees who must have access to the records to perform their duties; <p><u>NOTE:</u> If you do not have access to TFAS, please contact OTFM's Security Officer in the Division of Trust Funds Systems to request access to the system. The system will allow inquiry into an account's basic information, historical transaction detail, and cash balance information by either entering an account number or by entering the account holder's last name.</p> d. Any other federal or state agency or tribal programs for which the account holder has given a written and notarized authorization or an authorization witnessed by a DOI employee specifying the information to be released; <p><u>NOTE:</u> When the OTFM receives an OMB approved form requesting account information for informational purposes pursuant to the Financial Disclosure Act, the form will be honored if it is signed/certified by an employee of that federal agency (SSA, SSL, etc.).</p> e. A third party to whom the account holder has provided a written and notarized statement or an authorization witnessed by a DOI employee specifying the information to be released;

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- f. Any other parties permitted access to the information under the Privacy Act; and
- g. The account holder's Power of Attorney (see section 6-8 regarding Power of Attorney).

HOW MAY ACCOUNT INFORMATION BE ACCESSED:

Telephone Requests:

1. Upon receipt of a telephone inquiry requesting account information and prior to releasing any information, verify the identity of the caller. Do not release any account information to the caller before the identity of the caller is confirmed. Log onto the Trust Funds Accounting System (TFAS) and access the account information by entering the account number into the system or by searching the system for the last name of the account holder and then the first name.
2. If you do not know the caller, verify the identity of the caller by asking the caller to provide:
 - a. The caller's name, address, and their relationship to the account holder;
 - b. The account holder's name;
 - c. The account number; and
 - d. At least two of the following:
 - i. The account holder's address of record;
 - ii. The account holder's date of birth;
 - iii. The account holder's social security number;
 - iv. The account holder's tribal enrollment number; or
 - v. The approximate date and amount of the last check received.

NOTE: The responsibility of verifying the identity of the caller belongs to the employee who initially takes the call. Once the employee verifies the caller's identity, the employee may forward the caller to another employee without further verification by the subsequent employee, but

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must inform the subsequent employee that the caller's identity has been verified.

Further, a notation identifying the caller and the type of information released must be made to the account holder's file when account information is released pursuant to a telephone request. The notation must include the name, title and telephone number of any employee who has referred the caller after verifying the caller's identity. If the caller is the parent, the guardian or the Power of Attorney, his or her name should be indicated in either the account record or the name and address record.

3. If there is insufficient information on file to verify the information provided by the caller over the telephone, or if you are not satisfied with the authenticity of the caller, instruct the caller to either submit the request in writing with his/her signature notarized or witnessed by a DOI employee. The DOI employee must include their title and business phone number for purposes of verification. The caller may also be advised to submit a written request in person to the nearest BIA or OTFM office with the proper identification. If the individual making the request is the parent, the guardian or the Power of Attorney, a copy of the birth certificate of the account holder, court order or Power of Attorney document should be enclosed with the request. If the individual making the request is the parent, the guardian or the Power of Attorney and intends to visit a BIA or OTFM office, he or she should be prepared to show the appropriate documentation to verify their identity. Additionally, the parent's, the guardian's or the Power of Attorney's name should be in the IIM account information on TFAS.
4. If the caller is not authorized to receive account information, then do not release any account information to the caller.

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5. Provide the information requested by the caller once the identity of the caller is verified. If the information requires research, then perform the research in a timely manner and contact the caller upon completion of the research. If the research requires contact with other offices, advise the caller, then contact the other offices, maintain contact with those offices, and provide the caller with updates as to the progress of his/her request. Provide the caller with the 1-888-OST-OTFM (1-888-678-6836) number for their convenience in contacting the OTFM for future inquiries.

Written Requests:

1. Receive written requests for account information. Requests should be notarized or witnessed by a DOI employee. The DOI employee must include their title and business phone number for purposes of verification. If the requester is the parent, the guardian or the Power of Attorney, the request should be accompanied by a copy of the birth certificate of the account holder, a court order or the Power of Attorney document.
2. Act on the request once the information contained in the written request is verified. If necessary, coordinate the gathering of information with other offices by responding in writing to the requester and by forwarding a copy of the response to the appropriate office. If the requester does not receive a response in a timely manner, then the DOI employee should move up the chain of command until the request is answered. Keep the requester informed of the progress being made on his/her request.

Third Party Requests:

1. In order to release account information to an authorized third party, there must be a Privacy Act release on file executed by the proper individual. Privacy Act releases are valid for one (1) year and must be renewed annually. The release must indicate:
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- a. The specific information to be released;
 - b. To whom the information should be released;
 - c. How often the information should be released; and
 - d. The specific time period for which the release is valid, if it is valid for less than one (1) year.
2. Releases should be notarized or witnessed by a DOI employee. The DOI employee must include their title and business phone number for purposes of verification. If the requester is the parent, the guardian or the Power of Attorney, the request should be accompanied by a copy of the birth certificate of the account holder, a court order or the Power of Attorney document.

Walk in Requests:

1. Verify the identity of the individual making the request through photo identification and that individual's authorization to access the account information. Acceptable photo identification includes a:
 - a. Valid driver's license;
 - b. Government issued identification card; or
 - c. Photo identification card issued by the tribe.
 2. Talk with those individuals who do not have photo identification and obtain account information to confirm their identity. If an individual's identity or authorization to receive account information cannot be confirmed, do not release any account information. (See Telephone Request Section, step-2 above for a list of identity verification information).
 3. Act on the request once the identity of the requester is confirmed as being authorized to receive account information. If necessary, coordinate the gathering of information with other offices by responding in writing to the requester and by forwarding a copy of the response to the appropriate office. If the requester does not receive a
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response in a timely manner, then the DOI employee should move up the chain of command until the request is answered. Keep the requester informed of the progress being made on his/her request.

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Background. This section discusses IIM account earnings information that must be reported annually (on a calendar year basis) to the IRS, via IRS Form 1099-INT, 1099-MISC (1099), or "For Information Only" Form. In addition, this section discusses whether IIM account funds may be used to pay for tax preparation fees and associated filing fees. For all unrestricted accounts, the OTFM will send the appropriate IRS form directly to the account holder. Unrestricted account holders are responsible for any tax preparation fees and filing fees.

For supervised accounts, the parent (for minors), the guardian, or the adult account holder who has not been appointed a guardian is responsible for tax return filing and will receive the 1099. If the IIM account holder is a ward of the court, the court is responsible for ensuring that a tax return is filed (and will receive the 1099) unless the court has named another party (e.g., BIA or Tribal Social Services) as responsible for the financial affairs of the IIM account holder. If the account holder is deceased and the probate is before a deciding official, the probate deciding official is responsible for ordering the payment of taxes. BIA is responsible for informing the adult account holder without a guardian about how to obtain competent tax preparation assistance when the interest income reaches a taxable threshold.

The OTFM will send tax information regarding IIM accounts as follows. Where the:

1. Account holder is an adult in need of assistance and does not have an assigned guardian: The OTFM will send the original 1099 to the account holder and a copy to the BIA Officer-in-Charge.
2. BIA has been appointed the guardian with the approval of the Deputy Commissioner of Indian Affairs: The OTFM will send the original 1099 to the BIA Officer-in-Charge. The BIA, as guardian, must obtain competent tax preparation assistance.
3. Account is an estate account: The OTFM will send the original 1099 to the personal representative of the estate, or if a personal representative is not named, the original 1099 will be sent to the BIA Probate Specialist to file with the deciding official.
4. Account is a life estate remainderman account: The OTFM will send the original 1099 to the BIA Probate Specialist.

All funds used to pay for tax preparation fees and filing fees will be reported on the quarterly statement. If the OTFM does not have a valid social security number on file for an account holder, or is so instructed by the IRS, the IIM account holder's interest income may be subject to backup withholding. Investment income on judgment per capita funds becomes taxable once the

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IIM account holder reaches the age of majority unless the IIM account holder is found to be *non compos mentis* by a court of competent jurisdiction. Investment income from a judgment per capita account for an adult in need of assistance is taxable.

Cross Reference. 25 CFR §§ 115.702, 115.710-115.713
25 USC §§ 1407, 501, 412, 412a, 117a, 117b

Procedure.

<u>Responsibility</u>	<u>Procedure</u>
BIA	<ol style="list-style-type: none">1. Receive copies of IRS Form(s) 1099-INT and/or 1099-MISC and/or "For Information Only" Form (if an Osage Annuitant) for those accounts referenced in Background section 1 through 4 above.2. Advise adult supervised account holders who have not been appointed a guardian how to obtain competent tax preparation assistance. <u>NOTE:</u> Where the BIA is appointed as the guardian, obtain competent tax preparation assistance.3. Include the cost of tax preparation fees (if any), filing fees and all taxes due in the supervised account holder's distribution plan (see section 8-1). This can be included in the initial distribution plan or the modified distribution plan. Disbursements should be made directly to the service providers.4. If an estate account is involved, and an emergency petition is sought to disburse funds from the estate account for tax preparation fees, filing fees or taxes, consult the Probate Handbook. Disbursements will be made directly to the service providers.5. Forward the approved distribution plans and all deciding official approvals to disburse funds to the OTFM for the

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payment of tax preparation fees, filing fees and all taxes due.

6. Respond to requests from the OTFM for clarification of the requests and corrections as necessary.
7. Provide the OTFM with the trust estate administrator's name and address. If there is no trust estate administrator, provide the local BIA Probate Specialist's name and address.
8. Place a copy of IRS Form(s) 1099-INT and/or 1099-MISC and/or "For Information Only" Form (if an Osage Annuitant) in the probate file.

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1. Receive from the BIA approved distribution plans and deciding official approvals to disburse funds for tax preparation fees, filing fees and all taxes due and process the requests. Disbursements should be made directly to the service providers.
2. Request any documentation necessary for clarification and corrections from the BIA.
3. Report annually to the IRS and the IIM account holder the following information on IRS Form(s) 1099-INT and/or 1099-MISC and/or "For Information Only" Form (if an Osage Annuitant):
 - a. Name;
 - b. Address;
 - c. Tax identification number;
 - d. Taxable interest earned;
 - e. Related earnings information; and
 - f. Back up withholding if applicable.

NOTE: IRS Form(s) 1099-INT and/or 1099-MISC and/or

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“For Information Only” Form (if an Osage Annuitant) will be mailed to the:

- a. Account holder or power of attorney;
- b. Custodial parent, the legal guardian, an emancipated minor, or an adult in need of assistance without an assigned guardian. The address must be provided by the BIA Officer-in-Charge and the current custodial or guardianship court orders from a court of competent jurisdiction must be on file with the BIA and the OTFM. If the account holder is a ward of the Court, the Court will receive the IRS forms unless the Court has designated a third party as the person/entity in charge of the account holder’s financial affairs;
- c. BIA Officer-in-Charge (copy only) for supervised accounts where the account holder does not have a guardian ; or
- d. Trust estate administrator or BIA Probate Specialist.

NOTE: It is acceptable to use the address of record provided by the tribe for distribution of per capita payments for tax reporting purposes. If the custodial parent’s or the guardian’s name is not provided, the IRS forms should be mailed to the:

- a. “Custodial parent or the guardian of” the account holder or adult in need of assistance who does not have a guardian, at the account holder’s address of record; or
- b. BIA Officer-in-Charge for supervised accounts where the BIA is the guardian or designated as being in charge of the financial affairs.

NOTE: Tax information is reported to the IRS for “whereabouts unknown” IIM account holders. IRS Form(s) 1099-INT and/or 1099-MISC and/or “For Information Only” Form (if an Osage Annuitant) are not issued for special deposit accounts since by definition a special deposit account does not belong to an individual.

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4. Reissue IRS Form(s) upon request.
5. Take reasonable action to locate the individual by utilizing electronic search tools and working with the BIA and tribes as tax forms are returned as undeliverable.



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Background. This section discusses the responsibilities of the OTFM and the BIA regarding the address of record (statement address), tax reporting address, and disbursement address that may differ from the address of record for IIM accounts. It is the account holder's responsibility to notify the OTFM and/or the BIA of a change of address. However, great care must be taken before accepting an address or change of address. Allowing an unauthorized individual to change an account holder's address could result in the loss of funds for the account holder as they would no longer receive checks, account statements, or tax forms. Because of this high risk, addresses cannot be taken over the phone as the identity of the caller cannot be confirmed. Addresses of record may be different than addresses for disbursements or for tax reporting.

Cross Reference. 25 CFR §§ 115.101, 115.406-115.411
OTFM PRO 98-001

Procedure.

Responsibility	Procedure
BIA and OTFM	<ol style="list-style-type: none"> 1. If you receive a phone request to submit or change an address, explain that an address cannot be taken over the phone and that the caller may visit the nearest OTFM or BIA office or mail the information for their address to their local agency. Requests can be made in memo form or by completing Form OTFM 01-006 (see Appendix D). The requester's signature must be notarized or witnessed by a DOI employee. 2. Receive an address for IIM accounts from the: <ol style="list-style-type: none"> a. <u>Probate Order</u>: The probate order will be used to issue statements and disburse funds when an unrestricted account balance reaches the predetermined threshold only if the BIA Officer-in-Charge has approved/signed a "Permanent Authorization" Form 5-4249 (Form OTFM 01-005 also in use) for funds to be disbursed to the account holder. If a probate address is different from an existing address, the OTFM will research the account records and other available information to determine which is most current. b. <u>BIA Officer-in-Charge for Supervised Accounts</u>: The

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BIA Officer-in-Charge will provide to the OTFM the addresses for statements, tax reporting purposes and disbursement requests. Only the custodial parent, the legal guardian, or an emancipated minor may provide the BIA with an address. Current custodial or guardianship court orders from a court of competent jurisdiction must be on file at the BIA and the OTFM.

- c. Certified Judgment Per Capita Roll: Address information received (generally received on electronic files directly from the tribe) when establishing supervised accounts for a judgment per capita will be used to issue statements. When a disbursement is requested, the BIA Officer-in-Charge will confirm the address for statements, tax reporting purposes and disbursement requests.
 - d. Unrestricted Account Holder or Power of Attorney: Address information can only be accepted if the account holder or the authorized representative submits the address in person and provides verifiable photo identification (make a copy for the files) or by mail and the signature is either notarized or witnessed by a DOI employee (see definition of account holder/ payee signature). If the account holder's Power of Attorney is requesting an address change, DOI employees must be certain to request a copy of the Power of Attorney document (see section 6-8).
 - e. Tribal Per Capita Roll: Address information received when establishing supervised accounts for a tribal per capita will be used to issue statements. When a disbursement is requested, the BIA Officer-in-Charge will confirm the address for statements, tax reporting purposes and disbursement requests.
3. Verify the identity of the individual who is making the request to change the address as the authorized representative of the account holder. After verification of the authorized representative's identity, verify the account holder's information by requesting the account holder information detailed in BIA and OTFM step-4 below.
-

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4. Verify the identity of the account holder by requesting the following information:
 - a. The requester's name, address, and their relationship to the account holder;
 - b. The account holder's name;
 - c. The account number; and
 - d. At least two of the following:
 - i. The account holder's address;
 - ii. The account holder's date of birth;
 - iii. The account holder's social security number;
 - iv. The account holder's tribal enrollment number; or
 - v. The approximate date and amount of the last check received.
5. Forward all properly completed address updates to the OTFM and the BIA as appropriate.

OTFM

1. Receive requests to update addresses.
2. Review each request to ensure that it is in accordance with BIA and OTFM step-2 above.
3. Request any and all corrections or clarifications from the individual making the request. For example, if the BIA receives a request from an account holder to update an address and the BIA forwards the request to the OTFM, but the signature is not notarized or witnessed, then the OTFM will need to communicate directly with the account holder to have his or her signature notarized.

NOTE: Addresses for account holders that are to be sent "in care of" the BIA or the OTFM offices or employees generally are not acceptable. Prior approval of the Deputy Commissioner of Indian Affairs must be obtained before an address can be "in care" of the BIA. If the BIA is the trust

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estate administrator (there is no outside trust estate administrator appointed), the addressee for estate accounts is the BIA Probate Specialist (not "in care of" the BIA). If the BIA, upon approval of the Deputy Commissioner of Indian Affairs, is designated as the guardian or is in charge of the financial affairs for the account holder then the BIA is the intended recipient of the statements of performance, tax documents, and disbursements.

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Background. An IIM check is negotiable for one (1) calendar year. If the IIM check is not cashed within one (1) year of the date the check is issued, the check will be canceled by the U.S. Department of the Treasury through the IPAC process and the funds will be returned to the OTFM and posted into the IIM account. Treasury can take an additional three months after expiration of the check to issue a credit to the OTFM. This process is referred to as "Limited Payability Cancellation." An IIM check may also be lost, stolen or damaged. In these instances, the check can be canceled and reissued. If the check that was lost, stolen or damaged is older than one (1) year, then the check has already been canceled by the Treasury. There have been instances where an account holder stated that a check had been lost and requested a cancellation of the check and a re-issuance of the check. Then the account holder found the lost check, cashed it and cashed the reissued check. When this occurs, the Treasury will issue to the OTFM a payment over cancellation. A payment over cancellation withdraws the funds that were credited when the check was canceled. The OTFM then has to post a disbursement to the IIM account. When an account holder cashes the original check as well as the replacement check, posting both disbursements to the IIM account may result in an overdraft. Overdrawn accounts reduce the earning power of the IIM investment pool as a whole. For this reason, when a cancellation is requested, the account holder must state in writing that he or she will not cash the first check if it is found and will return the first check to the closest OTFM office. It is important to note that canceling a check will not prevent it from being cashed. Private sector banks have no way of knowing whether a Treasury check has been canceled.

Cross Reference. 25 CFR § 115.101

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive requests for cancellation and/or re-issuance of checks. 2. Refer requests to OTFM. 3. Report suspected fraud, corruption, and abuse activities to the OTFM Regional Financial Trust Services Officer (FTSO) with supporting documentation.

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1. Receive a request to replace a check that was lost, stolen or damaged within one (1) year of the date the check was issued. Obtain a written statement from the payee that the first check will not be cashed, but returned to the OTFM if found. Requests must be notarized or witnessed by a DOI employee. If the request is made in person, confirm the identity of the requester with verifiable photo identification (make a copy for the files). Proceed to OTFM step-3 below.
2. If you receive requests to replace checks older than one (1) year from the date of issue, research the account and check the account history and respond to the account holder based on the findings.
3. Complete a claim form SF-1184 to stop payment on a lost, stolen or damaged check. Documentation collected in OTFM step-1 above should provide the support for the request.
4. Process SF-1184s by accessing Treasury's online check cancellation system.
5. Post canceled check funds from:
 - a. The Treasury to a holding account when the check has not been cashed within twelve (12) months from the date of issue. Once you determine the account from which the check was originally issued (this information is not provided by Treasury on the IPAC), the funds will be transferred with interest to:
 - i. An unrestricted flow-through account. A new check will be sent to the account holder automatically after the funds have been credited to the account;
 - ii. A voluntary hold account where the money will remain until there is a request from the account holder for a withdrawal; or
 - iii. A restricted or estate account where the money will

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- remain until disbursement instructions are received pursuant to a disbursement plan, probate order, etc.
- b. The Treasury to the IIM account for lost, stolen, or damaged checks and fax or email a notice of deposit to the originating office to alert them to the deposit. Funds will be deposited to:
 - i. An unrestricted flow-through account where a new check will be sent automatically after the funds have been credited to the account;
 - ii. A voluntary hold account where the money will remain until there is a request for a withdrawal. Notify the account holder that the funds have been posted to the account. A request could be a renewal of the original disbursement request and the documentation in the file should be used; or
 - iii. A restricted or estate account where the money will remain until disbursement instructions are received. Notify the BIA that the canceled check funds have been posted to the account. The BIA may also monitor the account activity on-line through TFAS. Disbursement instructions may be a renewal of the original disbursement request, and the documentation in the file should be used.
6. In the event a check has been cashed and the:
 - a. Check date is within one year of the date of the request to cancel, then Treasury will provide a copy of the check and a claim form in the event the payee did not cash the check.
 - b. Check date is older than one year of the date of the request, then Treasury will provide a copy of the check.
 7. Provide assistance to account holders in contacting the proper investigatory officials where the account holder meets the criteria in OTFM step-6 (b) above.
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Background. This section discusses how an account holder may withdraw funds in his or her unrestricted IIM account and place and remove a voluntary hold on the account. There are two types of unrestricted accounts: an unrestricted flow-through account or a voluntary hold account. If the account is an unrestricted flow-through account, then all funds will be disbursed once the account balance reaches a predetermined threshold. If an account is on voluntary hold status, the funds will remain in the account until otherwise directed by the account holder. An account holder must specifically request a voluntary hold. Once an account is on a voluntary hold, the account holder may also request that funds be disbursed at periodic intervals. In order to make payment to a third party, the account holder whose account is on voluntary hold status must provide disbursement instructions directing OTFM to disburse a specific amount, on specific dates to specific individuals or organizations. Requests for either voluntary holds or voluntary disbursements made by phone will not be accepted.

All account holders should be encouraged to use direct deposit to receive disbursements from an IIM account for two reasons: 1) It is a faster means of receiving disbursements; and 2) It is a more secure means of disbursing funds to the account holder. A notice of direct deposit will be mailed to the statement address of record each time a direct deposit disbursement occurs.

Cross Reference. 25 CFR §§ 115.101, 115.701

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive requests to: <ol style="list-style-type: none"> a. Place an account on voluntary hold status; b. Withdraw funds from an unrestricted account; or c. Remove a voluntary hold from an account so that all funds will be disbursed once the account balance reaches the predetermined threshold.

NOTE: The account holder or the Power of Attorney must make a written request either in person with verifiable photo identification (make a copy for the files) or by mail and the signature must be either notarized or witnessed by a DOI employee (see definition of account holder/payee signature).

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If the account holder's Power of Attorney is making the request, a copy of the power of attorney instrument must be included (see section 6-8). Requests can be in memo format or you may use Form OTFM 01-005. Forward all requests to the OTFM.

2. Work with the OTFM to locate account holders whose disbursements are returned as whereabouts unknown.

OTFM

1. Receive requests as outlined above and in accordance with BIA step-1 above.
 2. Process all properly documented and authorized requests. For voluntary hold accounts with recurring payments, use disbursement ticklers to schedule the payments rather than submitting them manually. If the account does not have enough funds to cover a scheduled disbursement, TFAS will not process the automatic disbursement. If the scheduled disbursement does not process properly, notify the account holder within three (3) business days of the failure to make payments with the explanation that there were insufficient funds in the account.
 3. Request any and all clarifications and corrections from the account holder.
 4. When disbursements are returned as whereabouts unknown, take reasonable action to locate the individual by utilizing electronic search tools and working with the BIA and the tribes.
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SUBJECT	QUARTERLY STATEMENTS (ALSO REFERRED TO AS STATEMENTS OF PERFORMANCE) AND DEPOSIT ADVICE	SECTION	6-7

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Background. The American Indian Trust Fund Management Reform Act of 1994 (Reform Act) mandates that statements of performance be sent to each account holder on at least a quarterly basis. Like private sector banks, the OTFM issues quarterly statements of performance on a staggered basis throughout the year. As a result not all of the IIM account holders are on the same quarterly cycle. The quarterly statement of performance will include: 1) Source, type and status of the funds; 2) beginning balance; 3) gains and losses; 4) receipts and disbursements; and 5) ending balance. The only accounts for which statements of performance are not mailed are accounts that are in "whereabouts unknown" status or awaiting address confirmation. For all statements of performance produced, a copy is electronically stored and, upon request, a statement can be retrieved and printed. Ensuring that all accounts have statements of performance issued to a responsible party is the final and most effective internal control for an organization. Each statement recipient should be reviewing the statements of performance to ensure that receipts and disbursements are accurate. If statement recipients have questions regarding transactions appearing on the quarterly statement, they may contact an OTFM office by calling 1-888-OST-OTFM. The caller will be prompted for information in order to route the call to the appropriate party. If the account is supervised, the BIA social services office may also be contacted. Interim account information may be obtained by contacting the BIA or the OTFM. In addition to a quarterly statement, the OTFM mails notification that a direct deposit has been disbursed from the IIM account per those instructions on file. Adults in need of assistance with assigned guardians and adults *non compos mentis* may not receive the statement directly unless authorized by the guardian. By regulation, a minor cannot receive a statement of performance directly. Emancipated minors must receive their statements of performance. If the account holder is a ward of the court, and financial supervision has not been granted to an individual other than the court, then the court must receive the account holder's statement of performance. Additionally, if the:

1. Account holder is an adult in need of assistance and does not have an assigned guardian. The OTFM will send the original statement of performance to the account holder and a copy to the BIA Officer-in-Charge.
2. BIA has been appointed the guardian with the approval of the Deputy Commissioner of Indian Affairs. The OTFM will send the original statement of performance to the BIA Officer-in-Charge.
3. Account is an estate account. The OTFM will send the original statement of performance to the personal representative of the estate, or if a personal representative is not named, the original statement of performance will be sent to the BIA Probate Specialist.

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4. Account is a life estate remainderman account. The OTFM will send the original statement of performance to the BIA Probate Specialist.
5. Account is a special deposit account. The OTFM will send the original statement of performance to the BIA Officer-in-Charge.

Cross Reference. 25 USC §§ 4001 *et seq.*
25 CFR Part 115

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Review the quarterly statements of performance received from the OTFM. 2. Provide the OTFM with the name and address of the trust estate administrator. If there is no trust estate administrator, provide the name and address of the BIA Probate Specialist to the OTFM. 3. Provide the OTFM with the name and address of the BIA Probate Specialist selected to receive statements of performance for Life Estate "R" remainder accounts. 4. Request any and all transaction clarifications from the OTFM. 5. Work with the OTFM to locate account holders whose statements of performance are returned as "whereabouts unknown."
OTFM	<ol style="list-style-type: none"> 1. Send a quarterly statement of performance to the address of record for the: <ol style="list-style-type: none"> a. Account holder and, where applicable, the Power of Attorney.

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- b. Custodial parent, the legal guardian, an emancipated minor, or an adult in need of assistance without an assigned guardian. The address must be provided by the BIA Officer-in-Charge and current custodial or guardianship court orders from a court of competent jurisdiction must be on file with the BIA and the OTFM. If the account holder is a ward of the court, the court must receive the quarterly statement unless the court has designated a third party to be responsible for the account holder's financial affairs.

NOTE: It is acceptable to use the address of record provided by the tribe for per capita payments for statement mailing purposes.

- c. BIA Officer-in-Charge for supervised accounts where the BIA is the guardian of the property/in charge of the financial affairs or where an adult in need of assistance does not have a guardian.
- d. BIA Probate Specialist for estate accounts where the BIA has not provided trust estate administrator name and address.
- e. Trust estate administrator as provided by the BIA.
- f. BIA Officer-in-Charge for special deposit accounts.
- g. BIA Probate Specialist for all Life Estate "R" remainder accounts.

NOTE: Statements of performance will not be sent "in care of" the BIA.

- 2. Store all statements of performance produced in electronic form.
 - 3. Respond to the BIA requests for any and all transaction clarifications and corrections.
 - 4. As statements of performance are returned as "whereabouts
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unknown" take reasonable action to locate the individual by utilizing electronic search tools and working with the BIA and the tribes.

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SUBJECT	POWER OF ATTORNEY	SECTION	6-8

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Background. This section discusses the BIA's and the OTFM's acceptance of Powers of Attorney and how they will be treated when presented to access information and/or funds from an account holder's account. There are basically two types of Powers of Attorney: general and durable. A durable Power of Attorney should contain wording that the Power of Attorney will remain in effect if the principal becomes incapacitated after it becomes effective. If conflicting Power of Attorneys are received by a DOI employee, the account holder will have to clarify or revoke one of the conflicting Power of Attorneys. A Power of Attorney will not be accepted for:

1. An account holder who executes a Power of Attorney after being declared to be *non compos mentis* by a court of competent jurisdiction. If an account holder has signed a durable Power of Attorney with wording to the effect that if the account holder becomes incapacitated, the Power of Attorney remains in full force, then the Power of Attorney may be recognized pending court proceedings and a court order.
2. An account holder where reliable documentation exists indicating that there is a question as to the account holder's mental capacity at the time of the granting of the Power of Attorney, such as a medical report. In such cases the Power of Attorney will be sent to the Solicitor's Office for review. The account holder and the individual holding the Power of Attorney should be referred to social services for further assessment.

After Solicitor review, there may be instances where social services must work with the Power of Attorney to develop a distribution plan as outlined in section 8-1.

Procedure.

Responsibility	Procedure
BIA and OTFM	<ol style="list-style-type: none"> 1. Receive and review Powers of Attorney. Before a Power of Attorney is effective, it must be properly executed. A Power of Attorney must: <ol style="list-style-type: none"> a. Comply with the state law where it was executed; b. Be completed as instructed; c. Contain the notarized signature of the account holder; and d. Include a dated signature of a witness, if required under state law.

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2. In addition to the requirements above, ensure that the:
 - a. Power of Attorney is in effect. Powers of Attorney may be worded such that the granting of the powers is triggered by an event such as the incapacitation of the account holder.
 - b. Powers granted include the ability to access the IIM account. The Power of Attorney instrument does not have to specifically list the IIM account. Wording such as "all trust transactions" or "all financial institution transactions" may include the IIM account.
3. Forward the Power of Attorney to a Solicitor if the Power of Attorney is in accordance with BIA and OTFM step-1 above. If the Office of the Solicitor determines that the Power of Attorney is valid, then make a note on the Power of Attorney document that provides the Solicitor's name, date, opinion and any special instructions, as applicable.

OTFM

1. Receive the Solicitor's Office approved Powers of Attorney from the BIA, with the appropriate notations (see BIA step-3 above).
- 2. Receive the Powers of Attorney from the individual holding the Powers of Attorney. Review and forward the Powers of Attorney to the Solicitor if it is in accordance with BIA and OTFM step-1 above.
3. Process the Solicitor approved Powers of Attorney as follows:
 - a. Send a statement of performance to the account holder;
 - b. Send a statement of performance to the Power of Attorney;
 - c. Send checks to the Power of Attorney with the account holder as the payee or to a third party service provider; and

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- d. Directly deposit funds into a checking or a savings account established in accordance with applicable state law where the account holder is named on the account. You may direct account holders and the Power of Attorney to contact their banking representative for assistance.

NOTE: For unrestricted accounts, Solicitor approved Powers of Attorney may:

- a. Request funds and third-party payments;
 - b. Change addresses; and
 - c. Request that all funds be held in the IIM account in a voluntary hold status or provide disbursement instructions. Absent a request for a voluntary hold, funds will be automatically disbursed once the account balance reaches a predetermined threshold.
4. Take reasonable action to locate the individual by utilizing electronic search tools and working with the BIA and the tribes if correspondence or disbursements are returned after being sent to either the account holder or the Power of Attorney.

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SUBJECT	ADMINISTRATIVE ERROR CORRECTIONS	SECTION	6-9

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Background. This chapter discusses the procedures to be used to correct administrative errors in IIM accounts. If the error is discovered within the time limits described below and corrected as outlined below, notification (Kennerly Process) to the account holder is not necessary. The account holder must be notified of all other errors and corrective action must be taken in accordance with section 13-1 (Kennerly Process). Both the BIA and the OTFM must adhere to the process outlined below. Under no circumstances will an IIM account be overdrawn to correct an administrative error.

Cross Reference. 25 CFR §§ 115.600 *et seq.*

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Forward requests to the OTFM to reverse an administrative error if the: <ol style="list-style-type: none"> a. Error is discovered in the same month in which the error occurred; and b. Funds have not been disbursed; and c. Statements have not been generated. <p><u>NOTE:</u> Requests must include documentation showing the original error and the proposed correction.</p> 2. Respond to the OTFM requests for any and all clarifications and corrections within three (3) business days.
OTFM	<ol style="list-style-type: none"> 1. Receive requests to process any administrative error corrections from the BIA or the OTFM. 2. Process the correction (reversal) if the: <ol style="list-style-type: none"> a. Correction(s) are made in the same month that the error occurred; and b. Funds have not been disbursed; and c. Statements of performance have not been generated. <p><u>NOTE:</u> Corrections must account for the interest impact on the processing of the interest distribution</p>

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3. Request any and all clarifications and corrections from the BIA and the OTFM as necessary.

NOTE: An example of an administrative error correction would be when the BIA discovers that a lease distribution that interfaced the night before is incorrect. Upon providing notification the following morning, the OTFM will void the checks and cancel the direct deposit payments resulting from the distribution and process a reversal of all transactions associated with the erroneous distribution.

4. Contact the BIA Officer-in-Charge and determine the appropriate next steps, including notifying the appropriate parties, if an administrative error is discovered in processing the transaction.
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SUBJECT	NOTIFICATION OF DEATH	SECTION	7-1

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Background. This section discusses how an IIM account is to be changed to an estate account when an account holder dies. It is imperative that the OTFM be notified of account holder deaths so that the distribution of funds and statements to the IIM account holder can be suspended pending probate and/or approval of a petition for emergency assistance. The BIA Officer-in-Charge may not authorize a disbursement from an IIM account to pay for a certified copy of the death certificate.

Cross Reference. 25 CFR §§ 115.500 *et seq.*; 15.101 *et seq.*

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none">1. Receive <u>unofficial notification of death</u> through a:<ol style="list-style-type: none">a. Copy of an obituary;b. Verbal notification;c. Written notification;d. Copy of a certified judgment per capita roll; ore. Piece of returned mail stamped deceased by the U.S. Postal Service.2. Receive <u>official notification of death</u> through a:<ol style="list-style-type: none">a. Certified copy of the death certificate; orb. Copy of the tribal or individual affidavit <u>and</u> the obituary; orc. Copy of the tribal or individual affidavit <u>and</u> a copy of either church or court death records (see 25 CFR § 15.101).3. Forward the unofficial or the official notification of death to the OTFM so that the IIM account may be placed in an estate status.4. Work with the family to obtain a copy of the certified death certificate if unofficial notification of death is received. Once received, forward a copy of the death certificate to the OTFM so that the account can be updated to official notification of death status.

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5. Provide the OTFM with the name and address of the BIA Probate Specialist assigned to the case where there is no trust estate administrator named. If a trust estate administrator is named, provide the OTFM with the name and address for statement of performance and tax reporting purposes.

OTFM

1. Receive the notification of death from the BIA (probate personnel) or directly from a family member.
2. Forward a copy of the official or unofficial notification of death to the BIA Officer-in-Charge if the OTFM receives the notice (e.g., a piece of returned mail stamped deceased by the U.S. Postal Service).
3. Place the appropriate code on the account based on the type of notification of death received.
4. Update the estate account name and the address of record and note the appropriate BIA Probate Specialist or trust estate administrator name and address.

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	<u>BEFORE PROBATE</u>		

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Background. This section describes the circumstances under which funds may be disbursed from a decedent's IIM account prior to completion of the probate process. This section also identifies the purposes for which disbursement of funds from a decedent's IIM account prior to the end of probate proceedings may be approved. The cost of obtaining a certified copy of the death certificate will not be approved for disbursement from an IIM estate account except if ordered by an Administrative Law Judge.

Cross Reference. 25 CFR §§ 15.101, 15.106; 115.503
43 CFR §§ 4.251, 4.270

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Accept written requests for emergency assistance from the person responsible for making the funeral arrangements. The maximum amount available for emergency assistance is \$1,000.00 if the IIM account balance is greater than \$2,500.00 at the date of death. Requests for emergency assistance must include an original itemized estimate of the costs of the service to be rendered and must identify the service provider. If the IIM account balance is not greater than \$2,500.00 at the date of death, the request will be denied and the parties must be given the right to appeal. 2. Issue a decision on the request to withdraw funds for emergency assistance with funeral arrangements. If the request is denied, then give the parties the right to appeal. 3. Forward an approved request to withdraw funds signed by the BIA Officer-in-Charge and the itemized estimate of expenses to the OTFM. Requests must include the mailing address for the service provider. Payments will be made directly to the service provider. 4. Prepare or receive petitions to withdraw funds for those expenses incurred other than the funeral arrangement

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expenses or claims against the estate. Such petitions may include but are not limited to:

- a. Child support;
- b. Spousal support;
- c. Tax preparation fees and filing fees;
- d. Tax payments due;
- e. Expenses necessary to preserve the estate as determined by the BIA Officer-in-Charge under 43 CFR § 4.270.

NOTE: These expenses are included in the cost to administer the estate under 43 CFR § 4.251.

5. Forward the petition to the OHA deciding official (Administrative Law Judge) for approval.

NOTE: Currently, only OHA may authorize such disbursements prior to the final order.

6. Forward the order granting the petition to the OTFM for processing and payment.

OTFM

1. Receive the request from the BIA Officer-in-Charge for emergency assistance or the order from the OHA deciding official to disburse funds prior to the completion of the final probate order.
 2. Review the request or the order for compliance with BIA steps-1, 4 and 5 above.
 3. Return the request or order for disbursement from an estate prior to probate to the BIA or the OHA deciding official if it is not properly approved or requisite documentation is missing. An explanation of deficiencies must be included. Questions regarding the request or order should be directed to your supervisor.
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4. Process the order or request and disburse payment to the service providers or persons/entities as ordered by the OHA deciding official.

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SUBJECT	ADMINISTRATIVE ERROR CORRECTION	SECTION	7-3

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Background. This section describes what information is necessary to correct administrative errors during the various phases of the probate process. All corrections must include applicable interest so that the funds of the rightful owners are made whole as if the error had never occurred.

Cross Reference. 25 CFR §§ 115.500 *et seq.*; 15.107-15.108, 15.201-15.206
IIM Desk Operating Procedures (DOP), Section X: Transfer of Funds

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none">1. If an administrative error is discovered in an estate account, and:<ol style="list-style-type: none">a. The probate package has not been forwarded to the deciding official, the BIA should correct the error and make a notation of the correction in the probate package. A request for correction, signed by the BIA Officer-in-Charge, should be provided to the OTFM. The request should include a statement that the probate package has <u>not</u> been forwarded to the deciding official, and should contain all documentation outlining the original error and the correction that was made. The BIA should request that the OTFM calculate the applicable interest and credit it to the appropriate accounts; orb. The BIA has forwarded the probate package to the deciding official but a probate order has not been issued, then the BIA needs to send a memo to the deciding official to supplement the probate package and obtain the deciding official's approval to make the correction. Once the BIA has received the deciding official's approval, notification of the approval with all documentation outlining the original error and the correction made, including applicable interest calculations, should be provided to the OTFM; orc. The deciding official has issued an order, but the distribution has not taken place, then the BIA must advise the deciding official of the administrative error

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and make an official request to the deciding official to make a modification to the order to allow for the correction of the administrative error. The corrected order along with all documentation outlining the original error and all of the documentation illustrating the correction made to the account should be provided to the OTFM.

2. If the error is in a non-Indian life estate account and the funds have not been disbursed to the estate administrator, then a memo explaining this fact along with documentation that outlines the original error and the correction should be provided to the OTFM. Request that the OTFM calculate the applicable interest and credit it to the appropriate account.

OTFM

1. Receive requests from the BIA to process corrections to the estate account. If the package does not contain all of the documentation outlined above, notify the BIA Officer-in-Charge in writing within three (3) business days that the correction cannot be made to the account until the identified missing documents are submitted.
 2. Correct the administrative error and transfer the funds (including applicable interest) to the appropriate account upon receipt of a properly documented request.
 3. Contact the BIA Officer-in-Charge if an administrative error is discovered while processing the transaction. Determine the appropriate next steps, including notifying the appropriate parties.
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SUBJECT	CLAIMS AND DISTRIBUTIONS	SECTION	7-4

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Background. This section discusses the necessary procedures to probate the estate of an Indian decedent who owned trust or restricted property or resources, including the trust or restricted property or resources of a member of one of the Five Civilized Tribes and the Osage Nation, if the trust or restricted property or resources was derived from allotments of other tribes. If checks are disbursed to heirs who inherit cash and not an interest in trust lands or restricted property or resources (no account established for the heir at estate distribution) and those checks are returned as undeliverable or are returned uncashed after twelve (12) months from the date the check was issued, a whereabouts unknown IIM account will be established until a current address for the heir is located. Once an IIM estate account has been closed, the OTFM will not re-open the account due to a determination that the ownership data is not current or correct. However, if the probate is reopened by the deciding official then the estate account may be reopened pending a final probate order. If it is determined that a deceased account holder has heirs, but it cannot be established how many heirs exist or what their names are, the estate account will remain open until a final order is received. All accounts must be established using legal names. "Also Known As" (AKA) names can be added to the account record with supporting documentation for informational purposes. When an estate distribution includes both lease funds and judgment funds, those monies may be commingled into one lease account. Claims against the estate for delinquent irrigation operations and maintenance charges are not allowed.

Other Federal Agency Income: The heirs may or may not be entitled to other federal agency income (such as Social Security income) in an estate account. The BIA Officer-in-Charge must analyze the other agency income in the IIM account and consult with the solicitor's office for instructions on disposition of the funds when an IIM account holder is deceased and other agency income is on deposit in the IIM account. Any agency funds received after the death of the account holder must be returned to that agency.

Cross Reference. 25 CFR §§ 15.101, 15.301-15.312, 15.401-15.405; 115.501-115.503
IIM Desk Operating Procedures (DOP), Section X: Transfer of Funds

Procedure.

Responsibility	Procedure
BIA	1. Forward a copy of the probate order and the distribution instructions to the OTFM seventy-five (75) days after issuance of the order if no appeal has been filed. The distribution instructions include claim authorization forms, journal vouchers, and disbursement instructions, all of the documents must be approved by the BIA Officer-in-Charge. Estate

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distributions by allotment must include deposit dates as outlined in IIM DOP, Section X: Transfer of Funds.

NOTE: Partial distributions: Partial distributions of estate accounts may be made only pursuant to court order.

NOTE: Payment of Claims: The account balance as of the date of the probate order is the entire amount that is available to pay claims. The estate account will not be left open in order to receive future income to pay claims. However, these accounts will be left open and will remain open until the appeal period expires or the claim is paid. If the account balance on the distribution date is insufficient to cover the total amount to be paid as ordered by the deciding official, or the amount ordered to pay claims is greater than the balance in the account as of the date of the probate order, the BIA Officer-in-Charge must return the probate package to the deciding official for prioritization, proration, or disallowance of a claim.

2. Respond to requests for any and all corrections or clarifications from OTFM within three (3) business days.

OTFM

1. Receive a copy of the probate order with all distribution instructions.
2. Distribute the estate through the:
 - a. Payment of claims as follows:
 - i. Payment of Claims: The estate account will not be left open in order to receive future income to pay claims. If payment of the claims exhausts the account balance, then the estate distribution is complete and the account must be closed.

NOTE: Estate accounts decided by an ALJ prior to January 30, 2002, will be left open until the claims are paid or the time expires. However, other estates may be left open depending on the date of death. Consult the

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probate handbook and the OHA regulations and preamble for further explanation.

- b. Disbursement of funds directly from an estate account to the heir when the heir only inherits trust funds (a portion of the estate account).
 - c. Transfer of funds to an existing or a newly established IIM account as directed by the BIA Officer-in-Charge on the journal voucher. The journal voucher must be prepared in accordance with IIM DOP, Section X: Transfer of Funds.
3. Request any and all clarifications and corrections from the BIA within three (3) business days.
 4. Close the estate account(s) once all funds have been distributed in accordance with the probate order and the BIA distribution instructions.

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SUBJECT	LIFE ESTATE, CURTESY, DOWER AND HOMESTEAD INTERESTS	SECTION	7-5

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Background. Life estate, curtesy, dower and homestead interests will be treated the same and are referred to collectively as life estates (see Appendix E). Accounts can be established for life estates held by both Indians and non-Indians. Indian life estate holders will have the option of leaving funds in trust by placing a voluntary hold on their accounts. Funds for non-Indian life estate holders must be disbursed to them upon credit to the account subject to the dollar threshold for flow-through accounts. The life estate holder is entitled to all funds earned up to his or her date of death or as directed in the instrument that created the life estate. Funds earned after the date of death belong to the remainderman or as directed in the instrument that created the life estate. As lease funds are received from trust or restricted land or resources, the funds must be credited immediately and made available to the life estate account holder pursuant to the lease terms. A life estate holder will have one "B" account established even if that individual holds more than one life estate interest. If the probate order states that a cash remainder must be retained from the proceeds of a lease of trust property for the benefit of unknown individuals, that cash remainder will be held in an "R" account. "R" accounts will not be established unless there is a cash remainder for an unknown remainderman. In accordance with applicable directives, if the remaindermen are known, their accounts will be coded A, U, N or X to reflect their direct interest in the estate.

Cross Reference. 25 CFR §§ 115.504, 115.700-115.702
Appendix E-Procedures for Assigning Individual Indian Money Account Numbers and ID Numbers

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1 Request the establishment of a life estate account (see section 6-1). The request must include the approval from the BIA Officer-in-Charge and a copy of the probate order or the instrument that created the life estate. 2 Post life estate holder's and the cash remainder interest, if any, to the account through an automated interface from any DOI automated trust asset management system: <ol style="list-style-type: none"> a. "B" account - Life Estate, or b. "R" account - Remainderman who is <u>unknown</u>.

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3. Receive and forward to the OTFM notice of death for life estate account holders in accordance with section 7-1.
 4. Review transactions in the life estate account upon notification of the life estate account holder's death. The life estate account holder is entitled to income due on a lease up to and including the day of the life estate holder's death, unless the terms of the lease specify another payment plan. The remaindermen are entitled to income beginning on the day after the life estate holder's death, unless the terms of the lease specify another payment plan.
 5. Forward any and all corrections resulting from review in BIA step-4 above to the OTFM. All corrections must be approved by the BIA Officer-in-Charge and be in accordance with Section 7-3 for Indian life estate accounts.
 6. Forward all requests approved by the BIA Officer-in-Charge to the OTFM to distribute remainderman funds. Requests must include a copy of the probate order or the instrument that created the life estate.
 7. Prepare the probate package and forward it to the appropriate deciding official for Indian life estate account.
 8. Locate and verify estate administrator for a non-Indian life estate holder. Send a letter to the non-Indian life estate holder's last known address requesting verification of estate administrator.
 9. Forward all requests to the OTFM to disburse funds in non-Indian life estate account to the appropriate estate administrator and close the account. The request must be approved by the BIA Officer-in-Charge and include all documentation that verifies the identity of the estate administrator.
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10. Respond to requests for clarification and corrections from the OTFM within three (3) business days.

OTFM

1. Establish the life estate account based on instructions received from the BIA Officer-in-Charge and as directed in the probate order or instrument that created the life estate.
2. Receive interface from any DOI automated trust asset management system. Funds should be posted to:
 - a. "B" account - Life Estate, or
 - b. "R" account - Remainderman who is unknown.

NOTE: Funds may be posted manually within five (5) business days of establishing the new account in OTFM step-1 above. However, this should be the exception and will only be permitted until the BIA's trust asset management systems are updated. After the BIA system is updated, funds may be posted through the interfaces.

3. Disburse funds to life estate account holder based on instructions received from the life estate account holder. An Indian life estate holder may leave funds on deposit in a voluntary hold status. A non-Indian life estate holder must have all funds disbursed to him or her as received subject to the threshold for flow-through accounts.
 4. Receive notifications of death and code the account appropriately (see section 7-1).
 5. Process requests that are supported by documentation and approved by the BIA Officer-in-Charge:
 - a. Corrections from BIA step-5 above;
 - b. Distribute funds to remainderman from BIA-step 6 above; and
 - c. Disburse funds to non-Indian life tenant's estate administrator from BIA step-9 above.
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- 6 Request any and all clarification and corrections from the BIA Officer-in-Charge within three (3) business days and advise the BIA when corrections are completed.

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SUBJECT	DEVELOPING DISTRIBUTION PLANS FOR WITHDRAWING FUNDS FROM A SUPERVISED ACCOUNT	SECTION	8-1

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Background. This section discusses the BIA's responsibility for developing an annual distribution plan on behalf of an individual Indian when his or her trust account is supervised, all of the information that must be included in a distribution plan, and the OTFM's responsibility to disburse funds in accordance with a distribution plan that has been approved by a BIA Officer-in-Charge. No funds from an IIM account that is supervised will be disbursed without an approved distribution plan. This section applies to all supervised accounts (minors, emancipated minors, and adults). Accounts for minors and emancipated minors are supervised until the age of 18 years. The account may be supervised beyond the age of 18 years if the person is determined to be an adult in need of supervision or determined to be *non compos mentis* by a court of competent jurisdiction and the proper procedures are used to supervise the account or in the case of a per capita account if specified by a tribal resolution specific to the tribal per capita funds. A tribal resolution is not a distribution plan. If the account holder has a Power of Attorney, the Power of Attorney will be consulted to develop a distribution plan for emancipated minors and supervised adults. Distribution plans cannot exceed twelve (12) months and the disbursements must be in the best interest of the account holder. The account holder name on the distribution plan must be materially the same as the account holder name on TFAS. Re-occurring disbursements will be accomplished through ticklers in TFAS. TFAS can disburse funds in any amount, and at any time intervals, automatically as long as funds are available in the account. The tickler payments will not be allowed to continue beyond the expiration date of the distribution plan. In order for payments to continue uninterrupted, a new distribution plan must be received prior to the expiration of an existing distribution plan. The withdrawal of any funds from a supervised IIM account for private investment will be considered on a case by case basis.

The BIA or a tribally contracted or compacted social service program may not be a signatory on an IIM account holder's private sector bank account. Disbursements by direct deposit/EFT may be made to a private sector bank account for personal needs and incidentals of an IIM account holder only if both the guardian and the IIM account holder are listed in the account name (in accordance with applicable state law) or where the IIM account holder is the only name on the account if he or she is an adult in need of assistance with no assigned guardian.

Cross Reference. 25 CFR §§ 115.104, 115.400-115.431, 115.600-115.620
25 USC § 1403

Procedure.

Responsibility	Procedure
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BIA

1. Develop a distribution plan based on the information compiled during the evaluation process (see Appendix F).
2. Forward approved distribution plans to OTFM. The distribution plan must include:
 - a. A copy of any custodial orders or guardianship orders from a court of competent jurisdiction;

NOTE: The court order must be current. If the court order reads: "The account holder is a ward of the court with care and supervision given to the BIA social services or to the tribally contracted or compacted social service program" then the BIA social service or the tribally contracted or compacted social service program does not have guardianship of the property, including the IIM account. In this instance the BIA or the tribally contracted or compacted social service program will need to work with the court to develop the evaluation and the distribution plan pursuant to 25 CFR § 115.400 *et seq.*

- b. A list of the amounts, the purposes, and the dates for which disbursements will be made;
- c. The names of the person to whom disbursements may be made, as applicable, the:
 - i. Custodial parent;
 - ii. Legal guardian;
 - iii. Person who is recognized by the BIA as having control and custody of the minor;
 - iv. Emancipated minor; and/or
 - v. Any third parties and the addresses of the third parties to whom the direct payment will be made for goods and services provided to the account holder and supported by an invoice or bill of sale where applicable.
- d. The date the distribution plan was approved and the expiration date of the distribution plan; and
- e. The date of approval and the signature of the BIA official

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approving the distribution plan with a certification that the distribution plan is in the best interest of the IIM account holder (see Appendix F).

NOTE:

- a. Funds cannot be disbursed directly to a minor as payee, except for an emancipated minor and then only pursuant to a distribution plan.
 - b. Payments cannot be made directly to an adult *non compos mentis*.
 - c. No BIA employee, tribally contracted or compacted trust employee, BIA social services or tribally contracted or compacted social services program may be named payee for IIM funds of an account holder.
 - d. No checks may be sent "care of" the Superintendent or social services without the prior written approval of the Deputy Commissioner of Indian Affairs. A copy of the written approval must be provided to the OTFM with the distribution plan.
 - e. Utility expenses should be pro rated based on the number of adults in the household, when practicable.
 - f. The distribution plan should indicate the payment due date and the address of the utility. Since utility bills vary from month to month, unless on a fixed twelve (12) month plan, a copy of every bill must be submitted to the OTFM in order for the amount due to be disbursed. Forward utility bills upon receipt to OTFM and note the account holder name and account number on the utility bill.
3. Submit the distribution plan and copies of all invoices to the OTFM to support disbursements from the account. It is not necessary to also submit a one-time disbursement or programmed authorization form.
 4. Modify the distribution plan as needed based upon receipt of additional information or in an emergency situation. All
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modifications must be approved by the BIA Officer-in-Charge and forwarded to the OTFM for payment.

5. Conduct annual reviews prior to the expiration date of the existing distribution plan and develop a new distribution plan as needed. Annual reviews are not required if funds are not being disbursed from the IIM account.

OTFM

1. Receive the approved distribution plans from the BIA and review the plan for compliance with the requirements in BIA step-2 above.
2. Return the distribution plan to the submitting office with an explanation of the deficiencies within three (3) business days of receipt of the distribution plan if it is not in compliance with the requirements in BIA step-2 above.
3. Establish disbursement ticklers for the properly completed and approved distribution plans in accordance with the terms of the distribution plans. Use the expiration date contained in the distribution plan as the stop date for the disbursement ticklers unless an earlier stop date is indicated in the distribution plan.
4. Notify the BIA social services or the tribally contracted or compacted social service program recommending official in writing within one (1) business day when a scheduled disbursement tickler does not process due to lack of funds.
5. Modify the scheduled disbursement tickler on an as needed basis when a modified distribution plan is received.

NOTE: The distribution plan may be modified at any point in the course of an annual distribution plan. However, modification of a distribution plan does not change the beginning date or the expiration date of the plan.

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SUBJECT	WITHDRAWAL OF TRUST FUNDS FOR MINORS AND EMANCIPATED MINORS TURNING THE AGE OF MAJORITY	SECTION	9-1

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Background. This section describes what takes place when a minor or an emancipated minor account holder reaches the age of majority. Generally, upon reaching the age of majority, a minor account holder has unrestricted access to his or her trust funds. If the BIA Officer-in-Charge has decided that the minor's account needs supervision once the minor becomes an adult, but the notification process (Kennerly process) has not been complete by the time the minor account holder reaches the age of majority, and the account holder requests his/her funds, the requested funds must be released. Exceptions may exist for tribal per capita accounts, judgment per capita accounts, and for minors who are wards of the court. Tribal and judgment per capita accounts may have statutory language, use and distribution plans or tribal resolutions that specify an age of majority other than 18 years of age or other criteria that must be met or achieved before the funds can be accessed. For a minor who is a ward of the court, an order from the court declaring that the minor is no longer a ward of the court must be received before the minor may have unrestricted access to his or her IIM account. If the court order contains a date releasing the minor as a ward of the court, a new court order is not required. If an order is not received prior to the minor turning the age of majority, the account remains restricted, but the code is changed from supervised minor to supervised ward-awaiting court order. Until the stipulations for a tribal per capita account or judgment per capita account are met, and until an order from the court for a minor ward of the court is received, the account remains supervised and all disbursements must be in accordance with the distribution plan. Distribution plans must be developed in compliance with tribal resolutions for tribal per capita accounts and the use and distribution plan for judgment per capita accounts. Merely attaching a copy of the tribal resolution to an incomplete distribution plan will not constitute an acceptable distribution plan. If the account holder, upon reaching the age of majority, chooses to place a voluntary hold on judgment per capita funds that are on deposit in an IIM account, the judgment funds may not be commingled in a lease account. Interest earned on judgment fund monies may be subject to taxation after the account holder has reached the age of majority.

Cross Reference. 25 CFR §§ 115.428-115.431
25 USC §§ 1401 *et seq.*

Procedure.

Responsibility	Procedure
BIA	1. Review the minor's account file and conduct any assessment sixty (60) calendar days prior to the date that the minor will reach the age of majority (generally 18 years old)

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to determine whether the account holder needs supervision as an adult (see sections 8-1 and 10-1). For minors who are wards of the court and who will not require supervision as adults, advise the court that the minor is reaching the age of majority and that the DOI currently holds funds for the minor and will continue to hold funds as long as the individual remains a ward of the court.

NOTE: If a minor is a ward of the court and a court order is received that states that the account holder will remain a ward of the court as an adult, the account holder must be notified in writing that the account will be supervised (Kennerly process). The account will remain restricted, but the restriction must be changed from supervised minor to supervised adult (*non compos mentis* or adult in need of assistance).

2. Refer account holders who have reached the age of majority and who will not require supervision as adults to the nearest OTFM office.

OTFM

1. Work with the account holder to ensure all necessary documentation has been provided for any changes to the account:
 - a. The date of birth and a copy of a birth certificate;
 - b. An address verification if necessary;
 - c. The tribal enrollment or membership certificate (ID) if available;
 - d. The social security number on form W-9, where applicable;
 - e. Any disbursement instructions; and
 - f. An order from the court declaring that the minor is no longer a ward of the court, if applicable.

NOTE: A birth certificate must be on file before funds may

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be disbursed from an account in an unrestricted status; i.e., a minor who turned 18 and wants to withdraw funds must provide a birth certificate to the OTFM. Certain funds cannot be disbursed from an account coded "whereabouts unknown" or "awaiting address confirmation." If a W-9 is not received from the account holder, the interest income in the account may be subject to backup withholding.

2. Process the requests based on the instructions received from the account holder. Instructions may be:
 - a. For Per Capita Accounts: Once all tribally ordered requirements are met, the account holder may request that all funds be disbursed and the account closed or the account holder may request a voluntary hold on the account.
 - b. For Accounts with Funds Derived from Trust Resources: The account holder may request that all funds be disbursed once the balance reaches a predetermined amount or the account holder may request that a voluntary hold be placed on the account.

NOTE: An authorization from the account holder for a voluntary hold may be accompanied by a request for periodic specified disbursements (OTFM Form 01-005). Only the account holder and his/her Power of Attorney may request a voluntary hold.

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SUBJECT	WITHDRAWAL OF JUDGMENT PER CAPITA FUNDS	SECTION	9-2

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Background. This section discusses withdrawals from judgment per capita accounts made on behalf of a minor, an emancipated minor or a legal incompetent (*non compos mentis*). Withdrawals from judgment fund accounts may be made only for the account holder's health, education, welfare or for emergencies pursuant to a distribution plan approved by the Secretary and the tribal governing body of the Indian tribe involved and shall be limited to urgent needs arising from extenuating circumstances. When approved, funds may be disbursed only to the parents or the legal guardian of the minor or the legal guardian of the *non compos mentis*. For emancipated minors, the funds may be disbursed directly to them. To access the funds, the use and distribution plan for the judgment award must include a provision that allows access to the funds for the purpose requested. The use and distribution plan should have been approved by the Secretary prior to the issuance of the per capita payments. If the use and distribution plan does not contain a provision for the use of the funds, then requests for access to those funds must be approved by the Secretary prior to disbursement. In either scenario, Social Services will need to prepare a supervised account distribution plan (see section 8-1).

Cross Reference. 25 CFR § 115.104, 115.418
25 USC § 1403

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive a request from the parent, the guardian or an emancipated minor for withdrawal of judgment funds for minors or legal incompetents (<i>non compos mentis</i>). 2. Review the request to insure that the request is: <ol style="list-style-type: none"> a. For the purposes of health, education, welfare or an emergency situation; <u>and</u> b. Due to an urgent need of the account holder and that there are extenuating circumstances; <u>and</u> c. Pursuant to a use and distribution plan or tribal resolution, properly approved by the governing body of the tribe, the Secretary, and Congress. 3. Refer the requester to the tribe to initiate the approval of the request if the request is not pursuant to a use and

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distribution plan or tribal resolution approved by the governing body of the tribe and the Secretary.

4. Work with the account holder if the account holder is an emancipated minor or the parent or the guardian of the minor or the legal incompetent (*non compos mentis*) to develop a distribution plan as described in section 8-1. As with other disbursements from supervised accounts, payment should be made directly to the service provider.
5. Provide a copy of the approved distribution plan (as outlined in section 8-1) to the OTFM office for payment.
6. Respond to requests from the OTFM for any and all clarifications or corrections within three (3) business days.

OTFM

1. Disburse the funds pursuant to an approved distribution plan received from the BIA. If the distribution plan does not contain the necessary information described by the OTFM in section 8-1, return the distribution plan to the BIA for correction within three (3) business days of receipt. For the recurring payments or any future one-time payments use the disbursement ticklers. For one-time payments that are to be immediately disbursed request an online disbursement. For those payments made directly to a service provider, a copy of an invoice or a bill for services must be received by the OTFM before payment is made.
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Background. Generally all adult IIM accounts are unrestricted. There are three types of restricted IIM accounts: 1) Supervised Accounts, 2) Encumbered Accounts, and 3) Whereabouts Unknown Accounts. Whereabouts Unknown Accounts are discussed in section 11-2.

Supervised Accounts may occur when: 1) There is an order from a court of competent jurisdiction finding that an adult account holder is *non compos mentis* or in need of assistance; 2) There has been an administrative determination by the BIA, based on an assessment by a licensed medical professional or licensed mental health professional that an account holder is in need of assistance; or 3) There has been a determination by another federal agency that an account holder must have a representative payee. The BIA may be the representative payee only in those instances where there is no legal guardian to receive federal benefits on behalf of the account holder. Incarceration of an account holder is not justification for supervision of the account. Account holders must be serviced by the region/agency that is geographically closest to their residence. For example, an account holder with a supervised account who lives in Region "A" and his trust assets are located in Region "B" must work with Region "A" and Region "A" must work with the home agency (Region "B") to ensure that the IIM transactions are in accordance with the tribal resolutions and other requirements. Account holders who live outside of the region/agency service area must still be serviced by the region/agency closest in geographic proximity to the account holder's residence. If it appears that an account holder should be supervised, but due to service area or contracting or compacting concerns there is reluctance to supervise the account, the case should be referred to the solicitor's office for advice.

Encumbered Accounts may occur when there is a(n): 1) Delinquent claim of indebtedness to the United States or to any of its agencies or to the account holder's tribe; 2) Money judgment by a CFR or a tribal court; 3) Contractual agreement pre-approved by the Secretary (e.g., an assignment of IIM income as security or collateral in the event of default); 4) Order from a court of competent jurisdiction awarding on-going child support (this will only be recognized as a source of last resort; back child support awards will not be honored); or 5) Administrative error. The priority for payment is determined by the order the claims are presented to the BIA Officer-in-Charge (first-in, first-considered). Any funds in the account greater than the amount encumbered will be available to the account holder. At any point during the process of restricting the account (Kennerly process), the account holder may approve the disbursement of the amount sought to be encumbered. Delinquent irrigation operations and maintenance charges will not be paid from IIM accounts on an involuntary basis. The DOI will not recognize any assignment (including as security or collateral) of a supervised account holder's income by his or her parent or guardian.

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The following are applicable to Adult Supervised and Encumbered Accounts:

1. Notification: Notification must be provided to the account holder prior to the placement of a restriction on an IIM account or the involuntary disbursement of funds. Account holders cannot waive notification of a decision to restrict an IIM account.
2. Distribution Plan: Before funds may be disbursed from an IIM account, a distribution plan must be developed and all payments must be made in accordance with the distribution plan.

Cross Reference. 25 CFR §§ 115.102-115.104, 115.107, 115.400, 115.600-115.620
Memo from the Deputy Commissioner of Indian Affairs, Child Support Awards and Encumbering IIM Accounts, November 9, 2001

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive requests to restrict an IIM account. The requests must include the following documentation for each type of restriction: <ol style="list-style-type: none"> a. <u>Supervised Account</u>: <ol style="list-style-type: none"> i. <u>A Court Order</u> from a court of competent jurisdiction finding that an adult account holder is <i>non compos mentis</i> or in need of assistance; or ii. <u>A Recommendation</u> by a licensed medical professional or licensed mental health professional finding that an account holder is in need of assistance; or iii. <u>A Determination by Another Federal Agency</u> that an account holder must have a representative payee. b. <u>Encumbered Account</u>: <ol style="list-style-type: none"> i. A delinquent claim to the United States or to any of its agencies or to the account holder's tribe; ii. A money judgment by a CFR or a tribal court; iii. Any contractual agreement pre-approved by the

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- Secretary (e.g., an assignment of IIM income as security or collateral in the event of default);
- iv. An order from a court of competent jurisdiction awarding on-going child support (this will only be recognized as a source of last resort; back child support awards will not be honored); or
 - v. Written evidence of an administrative error.
2. Officer-in-Charge decides whether or not to place the restriction:
 - a. Supervised Account: The decision must include a narrative justification detailing the decision to supervise the account.
 - b. Encumbered Account: The decision must include an evaluation of the basic needs of the account holder and adequacy of future income to pay the debt. If the decision is to deny the request for restriction, advise the claimant of the decision.
 3. Notify the account holder of the proposed restriction of the IIM account in accordance with section 13-1 (Kennerly process) once the restriction is approved.
 4. Forward all documents listed in BIA step-1 above with a copy of the Kennerly letter and proof of mailing, service, or publication (see section 13-1) to the OTFM for a restriction to be placed on an IIM account.
 5. Prepare and approve a distribution plan and forward the plan to the OTFM to disburse funds after the appropriate waiting period has elapsed and/or all appeal rights have been exhausted (see Section 11-1). The payment of claims in the distribution plan must be prioritized as follows:
 - a. An order from a court of competent jurisdiction awarding on-going child support (this will only be recognized as a source of last resort; back child support awards will not be honored); and
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- b. Claims presented first in time or as specified in the applicable regulations (irrigation operations and maintenance are excluded). See background above.

NOTE: Where there is more than one encumbrance in one of the preceding categories, the encumbrance will be paid in the order received (i.e., first in time). If the restriction is due to a delinquent tribal credit loan, a copy of the promissory note signed by the account holder and a payment history indicating the delinquency must accompany the plan. Further, all payments in the plan must be itemized by principal and interest and the final payment towards the loan must be so noted.

OTFM

1. Place the appropriate restriction (supervision or encumbrance) on the IIM account upon receipt of the proper documentation (see BIA step-4 above). Once proper documentation is received from the BIA, a restriction may be placed on the account five (5) days after the date the notice was mailed, one (1) day after proof of personal delivery and five (5) days after the date of the fourth (4) publication notice. See 25 CFR §§ 115.600 *et seq.*
 2. Upon receipt of the distribution plan approved by the BIA Officer-in-Charge make the payment in accordance with the distribution plan if the account balance is greater than or equal to the amount of the distribution request (see chapter 8-1 for supervised account distribution plans and chapter 11-1 for encumbered account distribution plans). If funds are not available in the account, the BIA Officer-in-Charge must be notified in writing within one (1) day. Use disbursement ticklers to establish the distribution plan in TFAS. The stop dates for the disbursement ticklers must be no later than the expiration date of the distribution plan. Receipt of a properly prepared and approved distribution plan indicates that the appropriate waiting period has
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elapsed and/or appeal rights have been exhausted.



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SUBJECT	REMOVAL OF SUPERVISION OR ENCUMBRANCE	SECTION	10-2

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Background. This section discusses when a restriction on an encumbered IIM account or adult supervised account may be removed (e.g., an involuntary restriction).

Cross Reference. 25 CFR §§ 115.102-115.104, 115.600-115.620

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Remove a restriction under the following circumstances for: <ol style="list-style-type: none"> a. <u>Supervised Accounts:</u> <ol style="list-style-type: none"> i. Recommendation by a mental health professional or a licensed medical professional stating that an adult account holder is no longer in need of assistance; ii. Court order vacating prior order involving competency; iii. A notice from another federal agency removing the need for a representative payee; or iv. Decision during the hearing process (Kennerly process) that the account will not be supervised. b. <u>Encumbered Accounts:</u> <ol style="list-style-type: none"> i. If it is decided during the hearing process (Kennerly process) that funds in the IIM account will not be used to satisfy the debt or obligation; ii. Upon satisfaction of the debt or obligation; or iii. Upon expiration of the distribution plan. <p>NOTE: Requests must include approval from the BIA Officer-in-Charge and all supporting documentation.</p> <ol style="list-style-type: none"> 2. Forward the decision to remove a restriction from an account to the OTFM for processing. 3. Notify the IIM account holder and the Power of Attorney, if applicable, of the removal of the restriction within three (3) business days.

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1. Remove the restriction upon receipt of the decision approved by the BIA Officer-in-Charge and accompanied by all supporting documentation. The supporting documentation must substantiate one of the reasons for the removal of the restriction as outlined in BIA step-1 above.

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SUBJECT	DISTRIBUTION PLANS	SECTION	11-1

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Background. This section discusses what information will be considered in the development of the distribution plan, the information included in a distribution plan, and the OTFM's responsibility for disbursing funds in accordance with the distribution plan. No funds will be disbursed from an encumbered account without a distribution plan that is approved by the BIA Officer-in-Charge. Re-occurring disbursements will be accomplished through ticklers established in TFAS. TFAS can disburse funds in any amount and at any time intervals as long as the account balance is equal to or greater than the amount of the disbursement. The tickler payments will not be allowed to continue beyond the expiration date of the distribution plan. In order for payments to continue after the expiration of the distribution plan, a new distribution plan must be received by the OTFM. This section applies to all encumbered accounts.

Cross Reference. 25 CFR §§ 115.104, 115.600-115.620

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Consider the following information in the development of distribution plan: <ol style="list-style-type: none"> a. The IIM account balance; b. The anticipated future trust income of the account holder; c. The basic needs of the account holder; and d. Any existing encumbrances on the account. The payment of encumbrances must be prioritized as follows: <ol style="list-style-type: none"> i. Order from a court of competent jurisdiction awarding on-going child support (this will only be recognized as a source of last resort; back child support awards will not be honored); and ii. Claims presented first in time or as specified in the applicable regulations (irrigation operations and maintenance are excluded).

NOTE: Where there is more than one encumbrance in one of the preceding categories, the encumbrance will be paid in the order received (i.e., first in time).

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2. Prepare the distribution plan. For every encumbrance, the following payment information must include the:
 - a. Purpose of the payment;
 - b. Amount(s) to be paid to payee;
 - c. Dates payment(s) are due to payee;
 - d. Date of the final payment;
 - e. Name(s) and address(es) of payee(s);
 - f. IIM account number(s) from which payments will be made;
 - g. Date and signature of the BIA Officer-in-Charge approving the plan; and
 - h. Type of payment (EFT or check).

NOTE: Payments may be made over the course of one (1) or more years if the amount owed to the third party is greater than the account balance at the time the encumbrance is approved. When developing a distribution plan, the basic needs of the account holder and any existing encumbrances must be considered. If the restriction is due to a delinquent tribal credit loan, a copy of the promissory note signed by the account holder and a payment history indicating the delinquency must accompany the plan. Further, all payments in the plan must be itemized by principal and income and the final payment towards the loan must be so noted.

3. Forward the BIA approved distribution plans to the OTFM.
4. Respond to the OTFM request for any and all clarifications and corrections within three (3) business days of receipt of the request.
5. Modify distribution plans as the circumstances of the account holder change. Plans must be reviewed and revised on an annual basis. All modifications of the distribution plans must be approved by and signed by the BIA Officer-in-Charge.

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1. Receive the approved distribution plans from the BIA and review the plan for compliance with the requirements in BIA step-2 above.
2. Return the distribution plan if it is not in compliance with the requirements in BIA step-2 above to the submitting office with an explanation of the deficiencies within three (3) business days of receipt of the plan.
3. Establish disbursement ticklers for the properly completed and approved distribution plans in accordance with the terms of the distribution plan. Use the date of the last payment as the stop date for the disbursement ticklers.
4. Notify the BIA by email or memorandum within one (1) business day when a scheduled disbursement tickler does not process due to lack of funds in the account.
5. Modify the scheduled disbursement tickler on an as needed basis when a modified distribution plan is received from the BIA.

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SUBJECT	THIRD PARTY DISBURSEMENTS FROM ACCOUNTS CODED "WHEREABOUTS UNKNOWN"	SECTION	11-2

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Background. This section discusses when a disbursement to a third party may be made from an account coded as a "whereabouts unknown."

Cross Reference. 25 CFR §§ 115.104, 115.600-115.620

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive requests to restrict (encumber) an IIM account. The requests must include the following documentation: <ol style="list-style-type: none"> a. A delinquent claim of the United States or to any of its agencies or to the account holder's tribe; b. A money judgment by a CFR or a tribal court; c. Any contractual agreement pre-approved by the Secretary (e.g., an assignment of IIM income as security or collateral); d. An order from a court of competent jurisdiction awarding on-going child support (this will only be recognized as a source of last resort-back child support awards will not be honored); or e. Written evidence of an administrative error. 2. Notify the account holder of the proposed restriction of the IIM account once the BIA decides to approve the restriction in accordance with section 13-1 (Kennerly process). 3. Forward documents listed in BIA step-1 above with a copy of the Kennerly letter and proof of publication (see section 13-1) to the OTFM for a restriction to be placed on an IIM account. 4. Prepare and approve distribution plan in accordance with section 11-1.
OTFM	<ol style="list-style-type: none"> 1. Disburse funds pursuant to a BIA approved distribution plan

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- from an account coded as a "whereabouts unknown" if:
- a. Notification through publication (Kennerly Process) is provided for account holders whose whereabouts are unknown as outlined in section 13-1; or
 - b. Proof that notification occurred and payments began (i.e., distribution plan put in place) before the account holder became a "whereabouts unknown."



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SUBJECT	REQUIREMENTS AND RESTRICTIONS FOR ESTABLISHING A SPECIAL DEPOSIT ACCOUNT	SECTION	12-1

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Background. This section discusses the use and management of special deposit accounts. Historically, there has been no uniform practice for the use of special deposit accounts within the BIA. In the past, special deposit accounts have been used to hold all funds-including non-trust funds (such as bid deposits or funds held pending approval of transactions involving Indian trust assets). More importantly, funds held in special deposit accounts have not always been timely distributed, nor have trust funds always been distributed with the interest earned while on deposit in the special deposit account. Uniform procedures are necessary for consistent management of the creation, use and closure of special deposit accounts. These procedures will be forthcoming. BIA and OTFM must use compatible automated trust management systems to the greatest extent possible. Eventually all automated trust management systems used by Interior Department agencies working with Indian trust matters will be required to be compatible and will be subject to uniform business processes to facilitate compliance with applicable laws.

Furthermore, the maintenance of updated distribution/title records that adequately document who is entitled to trust funds derived from trust asset transactions is essential to ensuring sound trust fund financial management. Once this is accomplished, the need to deposit trust funds to special deposit accounts will be reduced dramatically.

The BIA and the OTFM currently are cooperating in a special deposit cleanup project under the OTFM's direction. Under this project, existing special deposit accounts are reviewed and specific actions to distribute the residual balances are recommended to the appropriate BIA Line Officer (Field Representative, Agency Superintendent, or Regional Director). Guidance for the use of special deposit accounts that have been scrubbed under the cleanup project will be forthcoming.

Special deposit accounts:

1. Are temporary accounts for the deposit of trust funds that cannot immediately be immediately be credited to the rightful account holders, and
2. May be used ONLY as an exception to the mandate (noted above) for immediate deposit and distribution of trust funds to individual Indian and tribal beneficiaries.

The use of special deposit accounts is subject to the following requirements:

1. Consistent with established financial management procedures, trust funds must be deposited within twenty-four (24) hours or no later than the close of business on

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the next business day following the receipt of funds at a location having a designated federal depository. (See Procedures for Handling Certain Non-Trust Funds, June 1, 2001; also 42 BIAM Supplement 3.)

2. Trust funds must be distributed immediately and directly to the appropriate Individual Indian Money (IIM) accounts or tribal trust accounts. Only trust funds may be deposited to a special deposit account. (25 CFR §§ 115.702, 115.900-115.904.)
3. If trust funds (principal) are on deposit for more than one (1) day in the special deposit account, interest earned on the deposit must be calculated and distributed at the same time as the principal.
4. Trust funds may be deposited or posted to a special deposit account only where there is a written, approved instrument, such as a contract or lease, authorizing the payment of trust funds.
5. While all trust transactions must be fully documented in accordance with existing program requirements, in order to assure proper crediting of trust accounts the collection documents (e.g. bill for collection or field receipt) must clearly identify the lease(s)/other instrument(s) and allotment number(s) associated with an amount posted to a special deposit account. If there are more than one lease/other instrument or allotment interest associated with a particular deposit, the documentation for the deposit must clearly identify the specific amounts generated by each lease/or other instrument and for each allotment interest represented.

Non-trust funds must be deposited into the BIA's Federal Financial System (FFS) in accordance with Procedures for Handling Certain Non-Trust Funds, June 1, 2001.

BIA offices will be accountable for managing, monitoring and reporting on the distribution of all funds deposited to special deposit accounts in accordance with this chapter and related directives. Written policy guidance and procedures for this section will be forthcoming in the near future, after which time this chapter will be revised. In the interim, BIA Regional, Agency and Field Offices and the OTFM must work closely to insure compliance with the requirements of the Background portion of this chapter.

Cross Reference. 25 CFR §§ 115.702, 115.900-115.904

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IIM Desk Operating Procedures (DOP), Section X: Transfer of Funds

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Background. This section discusses the notification process commonly referred to as the Kennerly Process: 1) Who must be notified; 2) What must be included in the notification to the account holder; 3) How the notification is given to the account holder; 4) When a restriction may be placed on an IIM account; 5) How the account holder may request a hearing; 6) How an account holder may appeal a decision resulting from a hearing; and 7) What happens to a claim against an account if a hearing is not requested. An individual is entitled to be notified of certain rights before his or her IIM account may be restricted (encumbered or supervised). These rights include the right of the account holder: 1) To a hearing; 2) To present testimony as to why the account should not be restricted; 3) To present witnesses on his or her behalf; 4) To question opposing witnesses; and 5) To be represented by an attorney at the account holder's expense. An account holder may also waive the right to a hearing and allow his or her IIM account to be encumbered or supervised. The account will be restricted but no funds will be disbursed until all appeal rights are exhausted and a final decision is issued. Regardless of the circumstance requiring the encumbrance (third party, BIA administrative error or OTFM administrative error) or supervision, BIA programs, OTFM programs, and third parties must forward appropriate documentation (e.g., loan documents) to the BIA Officer-in-Charge in order for the Kennerly process to be initiated (see section 10-1). An account holder cannot waive notification of a decision to restrict an account. This means notification of a restriction must be sent in every case. The restriction will remain on the IIM account until a final decision has been rendered. If for any reason the time frame requirements for giving notice, holding hearings, and rendering final decisions are not met, then the restriction must be lifted and the process must be started over.

Cross Reference. 25 CFR §§ 115.104, 115.107, 115.600-115.620
 43 CFR §§ 4.330-4.340

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Review all requests to restrict an IIM account in accordance with section 10-1. 2. Provide written notice to the: <ol style="list-style-type: none"> a. Account holder; and b. Guardian (if applicable); or c. Power of Attorney, in limited circumstances (see section

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3. Provide written notice by:
 - a. Certified mail or personal delivery. Notice must contain:
 - i. The name on the IIM account;
 - ii. The reason for the restriction;
 - iii. The amount to be encumbered, if applicable;
 - iv. A statement that the IIM account will be restricted five (5) days after the date the notice was sent United States certified mail or one (1) day after personal delivery to the address of record;
 - v. An explanation that the parties notified have forty (40) days from the date the notice was sent via United States certified mail to request a hearing challenging BIA's decision to restrict the IIM account;
 - vi. An explanation of how to request a hearing;
 - vii. A statement that the BIA will conduct the hearing and that the account holder is assured a fair hearing;
 - viii. A copy of the fair hearing guidelines (see 25 CFR §§ 115.600 *et seq.*);
 - ix. A statement that the parties notified may contact the BIA to authorize immediate payment from the IIM account to pay the claim, if applicable;
 - x. The address and phone number of the BIA office that made the decision to restrict the IIM account and provided the notice; and
 - xi. Other information as may be determined appropriate by the BIA.

NOTE: If the certified mail or personal delivery is unsuccessful (i.e., returned mail or account holder or their representative no longer resides at the address of record) then the IIM account must be unrestricted while the public notice procedures are implemented.

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- b. Provide public notice. Notice must contain:
- i. The name on the account;
 - ii. The date of the first publication of the public notice;
 - iii. A statement that the BIA has decided to place a restriction on the IIM account;
 - iv. A statement that the public notice will be published once a week for four (4) consecutive weeks;
 - v. A statement that the BIA will place a restriction on the IIM account five (5) days after the date of the fourth publication of the public notice;
 - vi. A statement that the notified parties' opportunity to request a hearing to challenge the BIA's decision to restrict the IIM account will expire thirty (30) days after the date of the fourth publication of the public notice; and
 - vii. The address and telephone number of the BIA office publishing the notice for the account holder to request further information and instructions on how to request a hearing.

NOTE: If the request for an encumbrance is based on a BIA or an OTFM administrative error, the office that made the error will be responsible for the publication costs, where applicable.

4. Review all requests for a hearing received from parties notified in BIA step-2 above. Requests for a hearing must be:
- a. In writing;
 - b. A specific request for a hearing to challenge the restriction; and
 - c. Hand delivered to the BIA office listed in the notice or postmarked within:
 - i. Forty (40) days of the date that BIA's notice was sent via United States certified mail or personally delivered to the address of record, or

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- ii. Thirty (30) days of the date of the final publication of the public notice.
5. Conduct a hearing within ten (10) business days of receipt of a written request for a hearing.
6. Render a final decision within ten (10) business days of the hearing and notify the parties involved with a final written decision which includes:
 - a. BIA's decision to remove or retain the restriction on the IIM account;
 - b. A detailed justification for the supervision or encumbrance of the IIM account, where applicable;
 - c. If an encumbrance is placed on the account the:
 - i. Amount(s) to be paid;
 - ii. Name and address of a third party to whom payment will be made; and
 - iii. Time period for repayment established under 25 CFR § 115.617 (a), where applicable.
 - d. Any provisions to allow for distributions to the account holder because of an undue financial hardship (to meet the account holder's needs) created by the encumbrance, if applicable; and
 - e. Any other information the hearing officer deems necessary.
7. Accept appeals from parties notified in accordance with 25 CFR Part 2.
8. Prepare distribution plans in accordance with sections 8-1 and 11-1 as applicable, if the:
 - a. Parties notified of the claim against the account contact the BIA to authorize immediate payment from the IIM account to pay the claim; or
 - b. Appeals are exhausted and the final decisions have been rendered; or
 - c. Time allowance for requesting appeals has expired.

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9. Notify the OTFM if a final decision is granted to remove the restriction in accordance with section 10-2.

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Background. All Federal agencies are required to make and preserve records containing adequate and proper documentation of their organization, function, policies, decisions, procedures and essential transactions. Records policies are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. These records are federal property and must be managed according to applicable federal laws and regulations.

Types of Records: Records exist in many different formats in addition to paper documents, for example, working files, drafts, e-mail messages, data and spreadsheets, computer output, data from test equipment, results of computer modeling, videos, maps, architectural drawings, and microform. Records include both final products and all documentation supporting the decision trails. Records include all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved, or appropriate for preservation, by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included in the definition of a record (44 USC § 3301 [Definition of records]).

Ownership of Records: Federal records created or received by an agency and its agents in the course of conducting Government business are the property of the United States Government. Official records are public records and belong to the Government rather than to the employee. Criminal penalties can be initiated against an employee for the willful and unlawful destruction of, the removal from files of, and the private use of official records.

Record Schedules: Federal records may only be destroyed in accordance with records disposition schedules approved by the Archivist of the United States National Archives and Records Administration (NARA). Agencies must ensure that disposition of their records, regardless of format or medium, is authorized and proper so that permanent records are preserved and temporary records no longer of use to an agency are promptly disposed of when their required retention period expires. Disposition refers to the action taken by a Federal agency with regard to records that are no longer needed for current government business. Disposition is a comprehensive term that includes both destruction and transfer of Federal records to NARA. The disposition of both temporary and permanent records requires the prior approval of the Archivist of the United States.

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Records must be managed as an agency asset throughout a life cycle that consists of three basic states: the creation, use and maintenance, and disposition. A records schedule provides mandatory instructions for what to do with record and non-record materials no longer needed for current government business. Schedules provide instructions for the retention, disposition, and systematic removal of unneeded records from offices. All records must be scheduled either by an agency schedule or a General Records Schedule (GRS).

1. GRS provide mandatory disposal authorization for temporary administrative records common to several or all Federal agencies. The GRS are issued by the Archivist of the United States and include records relating to civilian personnel, fiscal accounting, procurement, communications, printing, and other common governmental functions.
2. Agencies develop records schedules for all records not covered by the GRS. The schedules contain descriptions of the record series or systems and the disposition instructions for each. These instructions specify when the series are to be cut off, when eligible records are to be moved to off-site storage, when eligible temporary records must be destroyed or deleted, and when permanent records are to be transferred to the National Archives. Schedules must be approved by the Archivist of the United States. Once the schedules are approved, retention periods in the schedule are mandatory.

Records Management Program: The BIA and the OST are required under Federal statute to establish and maintain a records management program, defined as a planned, coordinated set of policies, procedures, and activities needed to manage an agency's recorded information. The program must encompass the creation, maintenance and use, and disposition of records, regardless of media and includes issuing up-to-date program directives, properly training those individuals responsible for implementation, and evaluating the results to ensure adequacy, effectiveness, and efficiency. In 1998 many of the approximately 75 million pages of documents, primarily Trust financial and account records, now in the custody of the OST, were transferred from the BIA to the OST by a Memorandum of Understanding between the Special Trustee for American Indians and the Deputy Commissioner of Indian Affairs and Assistant Secretary-Indian Affairs. In 1999 a combined Indian Affairs Records Management program (IARM) was created to establish and maintain an active and continuous records management program for the BIA and the OST. Records management means the planning, controlling, directing, organizing, training, promoting, and other activities involved with records creation, maintenance and use, and the disposition in order to achieve: 1) adequate and proper documentation of the policies and transactions of the Federal Government, and 2) effective and economical management of agency

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operations.

Cross Reference. 25 CFR §§ 15.503-15.504; 115.1000-115.1001; 162.111-162.112; 166.1000-166.1001
 43 CFR Part 2, Subpart B, Subpart D
 Memorandum of Understanding, Dated: June 1998, between the Special Trustee for American Indians and the Deputy Commissioner of Indian Affairs and Assistant Secretary-Indian Affairs.

Procedure.

Responsibility	Procedure
BIA and OST	<ol style="list-style-type: none"> 1. Make and preserve all records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency such as: <ol style="list-style-type: none"> a. Creating records needed to conduct business, to record decisions and actions taken, and to document activities; b. Safeguarding records so that information can be found when needed; and c. Disposing of records in accordance with established agency schedules and Federal regulations. 2. Establish safeguards against the removal of or the loss of records. 3. Consult with the Office of Trust Records for appropriate records management policies and procedures.

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SUBJECT	BIA AND OTFM REQUESTING RECORDS FROM THE FEDERAL RECORDS CENTERS AND OFFICE OF TRUST RECORDS	SECTION	14-2

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Background. The Office of Trust Records (OTR) is committed to preserving, safeguarding, and making available under proper controls, the records necessary to protect the legal and financial rights of both the Government and the Trust beneficiaries, the Tribes and Individual Indians. Excluding trust financial records transferred to the OST (and a few temporary exceptions), the OTR does not maintain physical custody of the BIA records. Retired, inactive BIA records are located in the Federal Records Centers (FRCs) or the National Archives.

Records in the FRCs remain the property of the BIA. The BIA office that retired the records, or the OTR Director in his capacity as the BIA Records Officer, control access to records in the FRCs. Records in the National Archives, whether in College Park, Maryland or the various regional archive locations, are in the legal custody of the NARA. NARA controls access and use of records in the National Archives.

Cross Reference. 25 CFR §§ 15.503-15.104; 115.1000-115.1001; 162.111-162.112;
166.1000-166.1001
43 CFR Part 2, Subpart B, Subpart D

Procedure.

Responsibility	Procedure
BIA and OTFM	<p><u>REQUESTING RECORDS FROM THE FEDERAL RECORDS CENTERS:</u></p> <ol style="list-style-type: none"> 1. Use a separate Optional Form 11 (OF-11), Reference Request, for each folder or box requested. The request should specify the: <ol style="list-style-type: none"> a. Name and the location of the person for whom the request is being made; b. Description of the records requested. Include the accession number from the SF-135, Records Transmittal and Receipt, and identify the number of the specific box in which the record(s) can be found (as shown on the SF-135), along with the location number. 2. The OTR has copies of most SF-135s for records in the FRCs. If your office does not have the SF-135 that

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transferred the records, you may contact OTR for assistance at: (505) 816-1600.

3. Return records to the FRC in the original folders or boxes to ensure accurate re-filing. If for some reason the box is unusable for shipment, copy all information from its front onto the front of the replacement box. Records may not be permanently withdrawn from the FRC without written approval of the OTR Director acting as the BIA Records Officer.

BIA

REQUESTING RECORDS FROM THE OTR RECORDS CENTERS:

1. Request copies of OST records on the OST Research Request form and send to the appropriate OTFM official for approval.

NOTE: In order to control proper access to the OST records, the BIA requests must be approved by an OTFM Financial Trust Operations Officer, Regional Trust Accountant, an OTFM Division Chief, the OTFM Deputy Director, or the Director of the OTFM.

OTR

1. Review and process the records request.
2. Research and analyze the applicable Indian trust financial documents and provide information within two (2) business days of the request when possible.

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SUBJECT	RELEASE OF RECORDS	SECTION	14-3

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Background. The Freedom of Information Act (FOIA) generally provides that any person has a right of access to federal agency records. The FOIA was amended by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) which grants the public access to government documents via computer telecommunications. Records (or any portion of a record) may not be disclosed due to one of the following exemptions:

1. Properly classified as secret in the interest of national defense or foreign policy;
2. Related solely to internal personnel rules and practices;
3. Specifically made confidential by other statutes;
4. Concerning trade secrets and commercial or financial information obtained from a person and privileged or confidential;
5. Inter-agency or intra-agency memoranda or letters, except under certain circumstances;
6. Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
7. Compiled for law enforcement purposes;
8. Contained in or related to certain examination, operating or condition reports of concerning financial institutions; and
9. Concerning gas or oil wells.

A charge may be applied by the office producing documents for record searches, reviews, and duplication of records. Charges are based on the requester category (i.e., commercial use, educational and noncommercial scientific institution, news media or other).

Forwarding a FOIA Request to OST: Write or FAX:

FOIA Requests, Office of Trust Records, 6301 Indian School Road, NE, Suite 300,
Albuquerque, New Mexico 87110
505-816-1600, 505-816-1612 (FAX)

Cross Reference. Freedom of Information Act (FOIA) and Electronic Freedom of Information Act (E-FOIA), 5 U.S.C. § 552
43 CFR, Part 2, Subpart B, Subpart D, Subpart E
DOI FOIA Handbook

Procedure.

Responsibility	Procedure
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BIA and OST

1. Receive written requests for the release of records.
2. Search, review, duplicate and provide records in accordance with the FOIA and E-FOIA, as explained in the DOI FOIA Handbook.
3. Charge for searches, reviews and duplication of records according to appropriate requestor category.

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Background. This section discusses how trust funds from an Indian land sale, right of ways and similar transactions are processed. All trust funds must be distributed through an IIM account so that the account holder may receive a statement as mandated by the American Indian Trust Fund Management Reform Act of 1994. Land sale and right of way proceeds cannot be paid directly to the landowner. Land sale and right of way proceeds cannot be posted to a trust account on TFAS until the BIA Officer-in-Charge approves the deed or the transaction. Match the account holder name on the supporting documentation with the account holder name on the TFAS pursuant to established policy guidelines.

Cross Reference. 25 CFR Part 151 and Part 169
 25 CFR § 115.702
 American Indian Trust Fund Management Reform Act of 1994, Pub. L. 103-412, 25 USC §§ 161(a) and 162(a)
 25 USC §§ 4001 *et seq.*
 Procedures for Handling Certain Non-Trust Funds, June 1, 2001
 IIM Desk Operating Procedures (DOP), Section X: Transfer of Funds

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Receive all applications and earnest money or proceeds. Deposit and post the funds received to a non-trust account as directed in the policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001, pending the BIA approval of the deed or transaction. 2. Transfer the proceeds to the OTFM as directed in the policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001, upon approval of the deed or transaction by the BIA Officer-in-Charge. Forward appropriate documentation (front and signature pages) of signed land sale/deed, right-of-way- agreement, etc. to the OTFM.

NOTE: Generally proceeds transferred to the OTFM are

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posted to the landowner's trust account on TFAS. Occasionally proceeds may be transferred to a special deposit account on TFAS pending the distribution to the landowner's IIM account. Funds left on deposit in a special deposit account for more than one (1) day must be distributed with applicable interest. See Chapter 12 (Special Deposit Accounts) in this Handbook and IIM DOP, Section X: Transfer of Funds, for journal voucher preparation and approval instructions.

3. Direct the OTFM to close the account if the:
 - a. Proceeds received from a right of way transaction are a one-time payment and all proceeds are disbursed to the landowner; or
 - b. Land sale proceeds are disbursed to the account holder after the account holder has sold their interest in all income-producing trust or restricted property.
4. Respond to any and all requests from OTFM for clarifications or corrections.

OTFM

1. Receive and post all proceeds transferred from the BIA as directed in the policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001.
 2. Close the IIM account upon approval of the BIA Officer-in-Charge.
 3. Request any and all clarifications and corrections from the BIA.
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SUBJECT	PROCESSING TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND	SECTION	15-2

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Background. This section discusses how trust funds derived from assets and resources on trust and restricted Indian land are received by the BIA and processed. These procedures do not apply to direct payments because direct payments are not processed by DOI employees and are paid directly to the lessor(s). All payments received by the Secretary must be distributed through a DOI trust asset management system interface to TFAS. The DOI trust asset management system used must calculate and distribute interest if funds are on deposit for more than one (1) day. The OTFM will approve the interest calculation methodology. Match the account holder names from the DOI trust asset management system with the account holder names on the TFAS pursuant to established policy guidelines. If a payment is received prior to the contractual due date, the payment must be immediately distributed to the landowner(s). Holding a payment received prior to the contractual due date in a special deposit account and returning any earned interest to the landowner is prohibited. All payments received by the BIA must be distributed to the landowner through an IIM account so that the account holder receives a statement of performance as mandated by the American Indian Trust Fund Management Reform Act of 1994.

Cross Reference. 25 CFR §§ 115.702, Part 162
 American Indian Trust Fund Management Reform Act of 1994, Pub. L. 103-412, 25 USC §§ 161(a) and 162(a)
 25 USC §§ 4001 *et seq.*
 IIM Desk Operating Procedures (DOP), Section X: Transfer of Funds

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> Allocate payments received for deposit to the appropriate IIM accounts and tribal trust accounts through the DOI's automated trust asset management system interface to TFAS or forward the payments to the OTFM for entry into agency level holding accounts (Special Deposit Accounts). All supporting bills for collection or field receipts must be included when forwarding payments to the OTFM. Distribute funds with interest if funds are on deposit for more than one (1) day. See IIM DOP, Section X: Transfer of Funds, for journal voucher preparation and approval instructions.

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NOTE: Follow the existing interface notification procedures.

2. Respond to the OTFM requests for any and all clarifications and corrections.

OTFM

1. Receive automated trust asset management system interfaces to TFAS or post to agency level holding accounts based on supporting bills for collection or field receipts. Funds must be distributed with interest if they are on deposit for more than one (1) day.
2. Forward to the BIA requests for any and all clarifications or corrections within three (3) business days.
3. Disburse all funds received through the BIA interfaces based on the:
 - a. Existing instructions on file for the appropriate IIM account or tribal trust account as reflected through the setup of the disbursement ticklers on TFAS; or
 - b. New instructions received.

INTERAGENCY PROCEDURES HANDBOOK: MANAGEMENT OF TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND

CHAPTER 16	COLLECTIONS	PAGE	1 of 2
SUBJECT	COLLECTION OFFICERS AND PROCESSING COLLECTIONS	SECTION	16-1

EFFECTIVE DATE July 8, 2002

REVISION DATE

Background. This section discusses the duties of a certified collection officer. Funds must be deposited within twenty-four (24) hours of being collected or no later than the close of business on the next business day following receipt of funds at a location with a designated federal depository. Agency and field offices that are not located near a designated federal depository must forward funds received to OTFM staff at the regional office for deposit into the trust system. Checks containing both trust funds and non-trust fund checks are referred to as checks requiring a "split deposit." The non-trust fund portion of a "split deposit" and those checks containing only non-trust funds must be processed in accordance with policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001. Any employee processing payments received must be a certified collection officer. Other federal agency income issued after the death of the account holder should not be deposited or posted to an IIM estate account.

Cross Reference. 25 CFR §§ 115.702, 115.708
 31 USC § 101
 TFM Part 5 chapter 2000, chapter 3000, chapter 4000, Part 6 chapter 8000 and 8030
 Procedures for Handling Certain Non-Trust Funds, June 1, 2001

Procedure.

Responsibility	Procedure
BIA and OTFM	<ol style="list-style-type: none"> 1. Handle funds received as directed in 42 BIAM, Supplement 3 and policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001 and 25 CFR 115. 2. Receive bills for collection and field receipts from the BIA programs and prepare the deposit tickets based on the type of funds collected.

NOTE: Only funds listed in 25 CFR § 115.702 can be deposited and posted into trust accounts. Collection officers cannot direct where to post funds they have collected. Such directions must come from the program staff.

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3. Deposit any funds received no later than the close of business on the next business day following the receipt of funds at a location with a designated federal depository.
4. Forward all deposit tickets, bills for collection, and field receipts for trust funds to the OTFM. Forward non-trust fund documentation as outlined in the policy directive memo: Procedures for Handling Certain Non-Trust Funds, dated June 1, 2001.

NOTE: Trust accounts must be open on the TFAS to post funds. Bills for collection and field receipts must indicate which trust account to post the funds and the account holder's name must match the name on TFAS in accordance with established policy guidelines. See Section 12-1 for instructions regarding funds that are to be posted to Special Deposit Accounts.

5. Take any corrective action necessary after notification that the duties of a certified collection officer are not being performed properly.
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INTERAGENCY PROCEDURES HANDBOOK: MANAGEMENT OF TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND

CHAPTER 17	OIL AND GAS	PAGE	1 of 2
SUBJECT	EXPLANATION OF PAYMENTS/MANUAL DISTRIBUTIONS	SECTION	17-1

EFFECTIVE DATE July 8, 2002

REVISION DATE

Background. This section discusses the requirement to issue an explanation of payments for oil and gas royalty distributions. The Federal Oil and Gas Royalty Management Act of 1982 mandates that oil and gas royalty distributions must be accompanied by an explanation of payment. This is accomplished through the Royalty Distribution and Reporting System (RDRS) which issues an explanation of payment for distributions. Any exceptions to distributions through RDRS may require manual processing of the explanation of payment. If they are not exempt, then an explanation of payment must be issued. All distributions must include interest earned on the funds being distributed. The account holder names from the DOI trust asset management system must match the account holder names on the TFAS in accordance with established policy guidelines.

Offices should consult with the Solicitor's Office to determine the requirements for furnishing an explanation of payments for oil and gas royalty distributions.

Cross Reference. Federal Oil and Gas Royalty Management Act of 1982, 30 USC §§ 188, 191, 1701 *et seq.*, 1701 nt., Pub.L. 97-451, 104-185, 104-200, 105-362

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Ensure that all oil and gas distributions are processed through the RDRS so that an explanation of payment is issued with the distribution. 2. Request an explanation of payment exemption from the Solicitor's office and forward it to the OTFM for those distributions not issued through the RDRS. 3. Obtain the Regional Director's approval to process the payment manually and forward the payment to the OTFM with supporting documentation for those distributions not issued through the RDRS and not exempted from the explanation of payment requirements. Documentation must include SF-1081 number, deposit dates, deposit amounts and the distribution breakdown. Offices should consult with the Solicitor's Office to determine the requirements for

INTERAGENCY PROCEDURES HANDBOOK: MANAGEMENT OF TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND

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furnishing an explanation of payments for oil and gas royalty distributions.

NOTE: Manual processing also requires OTFM Director approval.

4. Prepare a manual explanation of payment only for those distributions not issued through the RDRS and not exempted from the explanation of payment requirements and forward the information to the OTFM for mailing with the check or ACH advice.
5. Respond to any and all requests for clarifications on information provided to the OTFM within three (3) business days.

OTFM

1. Receive requests for all manual distributions. Requests must include:
 - a. Explanation of payments waiver approved by the Solicitor or the request to process manual distribution approved by the Regional Director;
 - b. SF 1081;
 - c. Deposit dates;
 - d. Deposit Amounts; and
 - e. Distribution breakdown.
 2. Request any and all clarifications as needed from the BIA.
 3. Forward to the OTFM Director for approval.
 4. Process distribution requests that have been approved by the OTFM Director with any interest earned.
 5. Mail the check or ACH advice with the manual explanation of payment received from the BIA if applicable.
-

INTERAGENCY PROCEDURES HANDBOOK: MANAGEMENT OF TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND

CHAPTER 17	OIL AND GAS	PAGE	1 of 2
SUBJECT	RECOUPMENTS	SECTION	17-2

EFFECTIVE DATE July 8, 2002

REVISION DATE

Background. This section discusses BIA recoupments not processed through the RDRS. Historically, it has been the practice to process BIA recoupments and the corresponding royalty distributions manually. These types of distributions must be approved by the Regional Director and the OTFM Director. An explanation of payment must be prepared manually reflecting the distribution and the recoupment. Exceptions to preparation of the explanation of payment must be approved by the Solicitor's office. The account holder names from the DOI trust asset management system must match the account holder names on the TFAS in accordance with established policy guidelines.

Cross Reference. Federal Oil and Gas Royalty Management Act of 1982, 30 USC §§ 188, 191, 1701 *et seq.*, 1701 nt., Pub.L. 97-451, 104-185, 104-200, 105-362

Procedure.

Responsibility	Procedure
BIA	<ol style="list-style-type: none"> 1. Obtain the Regional Director's approval to process manually and forward to the OTFM with all supporting documentation for distributions that are not processed through the RDRS and not exempted from explanation of payment requirements. Documentation must include SF-1081 number, deposit dates, deposit amounts and the distribution breakdown. 2. Prepare a manual explanation of payment that includes recoupments and forward the documents to the OTFM for mailing with check if not exempted by Solicitor's Office. 3. Respond to any and all requests for clarifications on information provided to the OTFM within three (3) business days.
OTFM	<ol style="list-style-type: none"> 1. Receive requests for manual distributions. Requests must include: <ol style="list-style-type: none"> a. Explanation of payments waiver approved by the Solicitor and the request to process manual distribution approved by the Regional Director;

INTERAGENCY PROCEDURES HANDBOOK: MANAGEMENT OF TRUST FUNDS DERIVED FROM ASSETS AND RESOURCES ON TRUST AND RESTRICTED INDIAN LAND

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SUBJECT	RECOUPMENTS	SECTION	17-2

EFFECTIVE DATE July 8, 2002

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- b. SF-1081;
 - c. Deposit dates;
 - d. Deposit Amounts;
 - e. Distribution breakdown; and
 - f. Manually prepared explanation of payment if not exempted by Solicitor's Office.
2. Request any and all clarifications from the BIA.
 3. Forward to the OTFM Director for approval.
 4. Process distribution requests that have been approved by the OTFM Director with any interest earned.
 5. Mail the check or ACH advice with the manual explanation of payment received from the BIA if applicable.

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX A

PUBLIC LAW 103-412, 103d CONGRESS

"American Indian Trust Fund Management Reform Act of 1994"

Public Law 103-412
103d Congress

An Act

To reform the management of Indian Trust Funds, and for other purposes.

Oct. 25, 1994
[H.R. 4833]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

American
Indian Trust
Fund
Management
Reform Act of
1994.
25 USC 4001
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Indian Trust Fund Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

- Sec. 101. Affirmative action required.
Sec. 102. Responsibility of Secretary to account for the daily and annual balances of Indian trust funds.
Sec. 103. Payment of interest on individual Indian money accounts.
Sec. 104. Authority for payment of claims for interest owed.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

- Sec. 201. Purpose.
Sec. 202. Voluntary withdrawal from trust funds program.
Sec. 203. Judgment funds.
Sec. 204. Technical assistance.
Sec. 205. Grant program.
Sec. 206. Return of withdrawn funds.
Sec. 207. Savings provision.
Sec. 208. Report to Congress.
Sec. 209. Regulations.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

- Sec. 301. Purposes.
Sec. 302. Office of Special Trustee for American Indians.
Sec. 303. Authorities and functions of the Special Trustee.
Sec. 304. Reconciliation report.
Sec. 305. Staff and consultants.
Sec. 306. Advisory board.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

- Sec. 401. Authorization of appropriations.

SEC. 2. DEFINITIONS.

25 USC 4001.

For the purposes of this Act:

(1) The term "Special Trustee" means the Special Trustee for American Indians appointed under section 302.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims

Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "Office" means the Office of Special Trustee for American Indians established by section 302.

(5) The term "Bureau" means the Bureau of Indian Affairs within the Department of the Interior.

(6) The term "Department" means the Department of the Interior.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

SEC. 101. AFFIRMATIVE ACTION REQUIRED.

The first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by adding at the end the following new subsection:

"(d) The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

"(1) Providing adequate systems for accounting for and reporting trust fund balances.

"(2) Providing adequate controls over receipts and disbursements.

"(3) Providing periodic, timely reconciliations to assure the accuracy of accounts.

"(4) Determining accurate cash balances.

"(5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.

"(6) Establishing consistent, written policies and procedures for trust fund management and accounting.

"(7) Providing adequate staffing, supervision, and training for trust fund management and accounting.

"(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands."

25 USC 4011.

SEC. 102. RESPONSIBILITY OF SECRETARY TO ACCOUNT FOR THE DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.

(a) **REQUIREMENT TO ACCOUNT.**—The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(b) **PERIODIC STATEMENT OF PERFORMANCE.**—Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a). The statement, for the period concerned, shall identify—

- (1) the source, type, and status of the funds;
- (2) the beginning balance;
- (3) the gains and losses;
- (4) receipts and disbursements; and
- (5) the ending balance.

(c) **ANNUAL AUDIT.**—The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.

SEC. 103. PAYMENT OF INTEREST ON INDIVIDUAL INDIAN MONEY ACCOUNTS.

(a) **PAYMENT OF INTEREST.**—The first section of the Act of February 12, 1929 (25 U.S.C. 161a), is amended—

(1) by striking out "That all" and inserting in lieu thereof "That (a) all"; and

(2) by adding after subsection (a) (as designated by paragraph (1) of this subsection) the following:

"(b) All funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of individual Indians shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable securities."

(b) **WITHDRAWAL AUTHORITY.**—The second sentence of subsection (a) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by inserting "to withdraw from the United States Treasury and" after "prescribe,".

(c) **TECHNICAL CORRECTION.**—The second subsection (b) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), as added by section 302 of Public Law 101-644 (104 Stat. 4667), is hereby redesignated as subsection (c).

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to interest earned on amounts deposited or invested on or after the date of the enactment of this Act.

25 USC 161a
note.

SEC. 104. AUTHORITY FOR PAYMENT OF CLAIMS FOR INTEREST OWED.

25 USC 4012.

The Secretary shall make payments to an individual Indian in full satisfaction of any claim of such individual for interest on amounts deposited or invested on behalf of such individual before the date of enactment of this Act retroactive to the date that the Secretary began investing individual Indian monies on a regular basis, to the extent that the claim is identified—

(1) by a reconciliation process of individual Indian money accounts, or

(2) by the individual and presented to the Secretary with supporting documentation, and is verified by the Secretary pursuant to the Department's policy for addressing accountholder losses.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

25 USC 4021.

SEC. 201. PURPOSE.

The purpose of this title is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States and managed by the Secretary through the Bureau, that, consistent with the trust responsibility of the United States and the principles of self-determination, will—

(1) give Indian tribal governments greater control over the management of such trust funds; or

(2) otherwise demonstrate how the principles of self-determination can work with respect to the management of such trust funds, in a manner consistent with the trust responsibility of the United States.

25 USC 4022.

SEC. 202. VOLUNTARY WITHDRAWAL FROM TRUST FUNDS PROGRAM.

(a) **IN GENERAL.**—An Indian tribe may, in accordance with this section, submit a plan to withdraw some or all funds held in trust for such tribe by the United States and managed by the Secretary through the Bureau.

(b) **APPROVAL OF PLAN.**—The Secretary shall approve such plan within 90 days of receipt and when approving the plan, the Secretary shall obtain the advice of the Special Trustee or prior to the appointment of such Special Trustee, the Director of the Office of Trust Fund Management within the Bureau. Such plan shall meet the following conditions:

(1) Such plan has been approved by the appropriate Indian tribe and is accompanied by a resolution from the tribal governing body approving the plan.

(2) The Secretary determines such plan to be reasonable after considering all appropriate factors, including (but not limited to) the following:

(A) The capability and experience of the individuals or institutions that will be managing the trust funds.

(B) The protection against substantial loss of principal.

(c) **DISSOLUTION OF TRUST RESPONSIBILITY.**—Beginning on the date funds are withdrawn pursuant to this section, any trust responsibility or liability of the United States with respect to such funds shall cease except as provided for in section 207 of this title.

25 USC 4023.

SEC. 203. JUDGMENT FUNDS.

(a) **IN GENERAL.**—The Secretary is authorized to approve plans under section 202 of this title for the withdrawal of judgment funds held by the Secretary.

(b) **LIMITATION.**—Only such funds held by the Secretary under the terms of the Indian Judgment Funds Use or Distribution Act (25 U.S.C. 1401) or an Act of Congress which provides for the secretarial management of such judgment funds shall be included in such plans.

(c) **SECRETARIAL DUTIES.**—In approving such plans, the Secretary shall ensure—

(1) that the purpose and use of the judgment funds identified in the previously approved judgment fund plan will continue to be followed by the Indian tribe in the management of the judgment funds; and

(2) that only funds held for Indian tribes may be withdrawn and that any funds held for individual tribal members are not to be included in the plan.

SEC. 204. TECHNICAL ASSISTANCE.

25 USC 4024.

The Secretary shall—

(1) directly or by contract, provide Indian tribes with technical assistance in developing, implementing, and managing Indian trust fund investment plans; and

(2) among other things, ensure that legal, financial, and other expertise of the Department of the Interior has been made fully available in an advisory capacity to the Indian tribes to assist in the development, implementation, and management of investment plans.

SEC. 205. GRANT PROGRAM.

25 USC 4025.

(a) **GENERAL AUTHORITY.**—The Secretary is authorized to award grants to Indian tribes for the purpose of developing and implementing plans for the investment of Indian tribal trust funds.

(b) **USE OF FUNDS.**—The purposes for which funds provided under this section may be used include (but are not limited to)—

(1) the training and education of employees responsible for monitoring the investment of trust funds;

(2) the building of tribal capacity for the investment and management of trust funds;

(3) the development of a comprehensive tribal investment plan;

(4) the implementation and management of tribal trust fund investment plans; and

(5) such other purposes related to this title that the Secretary deems appropriate.

SEC. 206. RETURN OF WITHDRAWN FUNDS.

25 USC 4026.

Subject to such conditions as the Secretary may prescribe, any Indian tribe which has withdrawn trust funds may choose to return any or all of the trust funds such tribe has withdrawn by notifying the Secretary in writing of its intention to return the funds to the control and management of the Secretary.

SEC. 207. SAVINGS PROVISION.

25 USC 4027.

By submitting or approving a plan under this title, neither the tribe nor the Secretary shall be deemed to have accepted the account balance as accurate or to have waived any rights regarding such balance and to seek compensation.

SEC. 208. REPORT TO CONGRESS.

25 USC 4028.

The Secretary shall, beginning one year after the date of the enactment of this Act, submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate on the implementation of programs under this title. Such report shall include recommendations (if any) for changes necessary to better implement the purpose of this title.

SEC. 209. REGULATIONS.

25 USC 4029.

(a) **IN GENERAL.**—Not later than 12 months after the date of enactment of this title, the Secretary shall promulgate final regulations for the implementation of this title. All regulations promulgated pursuant to this title shall be developed by the Sec-

retary with the full and active participation of the Indian tribes with trust funds held by the Secretary and other affected Indian tribes.

(b) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

25 USC 4041.

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to provide for more effective management of, and accountability for the proper discharge of, the Secretary's trust responsibilities to Indian tribes and individual Indians by establishing in the Department of the Interior an Office of Special Trustee for American Indians to oversee and coordinate reforms within the Department of practices relating to the management and discharge of such responsibilities;

(2) to ensure that reform of such practices in the Department is carried out in a unified manner and that reforms of the policies, practices, procedures and systems of the Bureau, Minerals Management Service, and Bureau of Land Management, which carry out such trust responsibilities, are effective, consistent, and integrated; and

(3) to ensure the implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians.

25 USC 4042.

SEC. 302. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the Office of Special Trustee for American Indians. The Office shall be headed by the Special Trustee who shall report directly to the Secretary.

(b) SPECIAL TRUSTEE.—

President.

(1) APPOINTMENT.—The Special Trustee shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who possess demonstrated ability in general management of large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money.

(2) COMPENSATION.—The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule under section 5313 of title 5, United States Code.

(c) TERMINATION OF OFFICE.—

(1) CONDITIONED UPON IMPLEMENTATION OF REFORMS.—The Special Trustee, in proposing a termination date under section 303(a)(2)(C), shall ensure continuation of the Office until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee.

(2) 30-DAY NOTICE.—Thirty days prior to the termination date proposed in the plan submitted under this section, the Special Trustee shall notify the Secretary and the Congress in writing of the progress in implementing the reforms identi-

fied in the plan. The Special Trustee, at that time, may recommend the continuation, or the permanent establishment, of the Office if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities.

(3) **TERMINATION DATE.**—The Office shall terminate 180 legislative days after the date on which the notice to the Congress under paragraph (2) is provided, unless the Congress extends the authorities of the Special Trustee. For the purposes of this section, a legislative day is a day on which either House of the Congress is in session.

SEC. 303. AUTHORITIES AND FUNCTIONS OF THE SPECIAL TRUSTEE. 25 USC 4043.

(a) **COMPREHENSIVE STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Special Trustee shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, within one year after the initial appointment is made under section 302(b), a comprehensive strategic plan for all phases of the trust management business cycle that will ensure proper and efficient discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians in compliance with this Act.

(2) **PLAN REQUIREMENTS.**—The plan prepared under paragraph (1) shall include the following:

(A) Identification of all reforms to the policies, procedures, practices and systems of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities in compliance with this Act.

(B) Provisions for opportunities for Indian tribes to assist in the management of their trust accounts and to identify for the Secretary options for the investment of their trust accounts, in a manner consistent with the trust responsibilities of the Secretary, in ways that will help promote economic development in their communities.

(C) A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office.

(b) **DUTIES.**—

(1) **GENERAL OVERSIGHT OF REFORM EFFORTS.**—The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this Act.

(2) **BUREAU OF INDIAN AFFAIRS.**—

(A) **MONITOR RECONCILIATION OF TRUST ACCOUNTS.**—The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

(B) **INVESTMENTS.**—The Special Trustee shall ensure that the Bureau establishes appropriate policies and proce-

dures, and develops necessary systems, that will allow it—

(i) properly to account for and invest, as well as maximize, in a manner consistent with the statutory restrictions imposed on the Secretary's investment options, the return on the investment of all trust fund monies, and

(ii) to prepare accurate and timely reports to account holders (and others, as required) on a periodic basis regarding all collections, disbursements, investments, and return on investments related to their accounts.

(C) OWNERSHIP AND LEASE DATA.—The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.

(3) BUREAU OF LAND MANAGEMENT.—The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

(4) MINERALS MANAGEMENT SERVICE.—The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.

(c) COORDINATION OF POLICIES.—

(1) IN GENERAL.—The Special Trustee shall ensure that—

(A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and

(B) the Department prepares comprehensive and coordinated written policies and procedures for each phase of the trust management business cycle.

(2) STANDARDIZED PROCEDURES.—The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.

(3) INTEGRATION OF LEDGER WITH INVESTMENT SYSTEM.—The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

(4) INTEGRATION OF LAND RECORDS, TRUST FUNDS ACCOUNTING, AND ASSET MANAGEMENT SYSTEMS AMONG AGENCIES.—The Special Trustee shall ensure that—

(A) the land records system of the Bureau interfaces with the trust fund accounting system, and

(B) the asset management systems of the Minerals Management Service and the Bureau of Land Management interface with the appropriate asset management and

accounting systems of the Bureau, including ensuring that—

(i) the Minerals Management Service establishes policies and procedures that will allow it to properly collect, account for, and disburse to the Bureau all royalties and other revenues generated by production from leases on Indian lands; and

(ii) the Bureau of Land Management and the Bureau provide Indian landholders with accurate and timely reports on a periodic basis that cover all transactions related to leases of Indian resources.

(5) TRUST MANAGEMENT PROGRAM BUDGET.—

(A) DEVELOPMENT AND SUBMISSION.—The Special Trustee shall develop for each fiscal year, with the advice of program managers of each office within the Bureau of Indian Affairs, Bureau of Land Management and Minerals Management Service that participates in trust management, including the management of trust funds or natural resources, or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section, a consolidated Trust Management program budget proposal that would enable the Secretary to efficiently and effectively discharge his trust responsibilities and to implement the comprehensive strategic plan, and shall submit such budget proposal to the Secretary, the Director of the Office of Management and Budget, and to the Congress.

(B) DUTY OF CERTAIN PROGRAM MANAGERS.—Each program manager participating in trust management or charged with responsibilities under the comprehensive strategic plans shall transmit his office's budget request to the Special Trustee at the same time as such request is submitted to his superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code.

(C) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—The Special Trustee shall—

(i) review each budget request submitted under subparagraph (B);

(ii) certify in writing as to the adequacy of such request to discharge, effectively and efficiently, the Secretary's trust responsibilities and to implement the comprehensive strategic plan; and

(iii) notify the program manager of the Special Trustee's certification under clause (ii).

(D) MAINTENANCE OF RECORDS.—The Special Trustee shall maintain records of certifications made under paragraph (3)(B).

(E) LIMITATION ON REPROGRAMMING OR TRANSFER.—No program manager shall submit, and no official of the Department of the Interior may approve or otherwise authorize, a reprogramming or transfer request with respect to any funds appropriated for trust management which is included in the Trust Management Program Budget unless such request has been approved by the Special Trustee.

(d) **PROBLEM RESOLUTION.**—The Special Trustee shall provide such guidance as necessary to assist Department personnel in identifying problems and options for resolving problems, and in implementing reforms to Department, Bureau, Bureau of Land Management, and Minerals Management Service policies, procedures, systems and practices.

(e) **SPECIAL TRUSTEE ACCESS.**—The Special Trustee, and his staff, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, files and other material, as well as to any officer and employee, of the Department and any office or bureau thereof, as the Special Trustee deems necessary for the accomplishment of his duties under this Act.

(f) **ANNUAL REPORT.**—The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) and in meeting the timetable established in the strategic plan under subsection (a)(2)(C).

25 USC 4044.

SEC. 304. RECONCILIATION REPORT.

The Secretary shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, by May 31, 1996, a report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995. In carrying out this section, the Secretary shall consult with the Special Trustee. The report shall include—

(1) a description of the Secretary's methodology in reconciling trust fund accounts;

(2) attestations by each account holder that—

(A) the Secretary has provided the account holder with as full and complete accounting as possible of the account holder's funds to the earliest possible date, and that the account holder accepts the balance as reconciled by the Secretary; or

(B) the account holder disputes the balance of the account holder's account as reconciled by the Secretary and statement explaining why the account holder disputes the Secretary's reconciled balance; and

(3) a statement by the Secretary with regard to each account balance disputed by the account holder outlining efforts the Secretary will undertake to resolve the dispute.

25 USC 4045.

SEC. 305. STAFF AND CONSULTANTS.

(a) **STAFF.**—The Special Trustee may employ such staff as the Special Trustee deems necessary. The Special Trustee may request staff assistance from within the Department and any office or Bureau thereof as the Special Trustee deems necessary.

(b) **CONTRACTS.**—To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Trustee may enter into contracts and other arrangements with public agencies and with private persons and organizations for consulting services and make such payments as necessary to carry out the provisions of this title.

SEC. 308. ADVISORY BOARD.

25 USC 4046.

- (a) **ESTABLISHMENT AND MEMBERSHIP.**—Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations, of which—
- (1) five members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;
 - (2) two members shall have practical experience in trust fund and financial management;
 - (3) one member shall have practical experience in fiduciary investment management; and
 - (4) one member, from academia, shall have knowledge of general management of large organizations.
- (b) **TERM.**—Each member shall serve a term of two years.
- (c) **FACA.**—The advisory board shall not be subject to the Federal Advisory Committee Act.
- (d) **TERMINATION.**—The Advisory Board shall terminate upon termination of the Office of Special Trustee.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

25 USC 4061.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 4833:

HOUSE REPORTS: No. 103-778 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX B

MEMORANDUM OF UNDERSTANDING BETWEEN BIA AND OST

**"...to reach a common goal of an improved process for the
administration, management, and accounting of trust fund accounts."**

MEMORANDUM OF UNDERSTANDING
BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF TRUST FUNDS MANAGEMENT

I. Preamble

The Federal government, primarily through the Department of the Interior (DOI) is the trustee regarding Indian lands and resources held and maintained in trust status or as restricted assets for Indian tribes and individual Indians. The Office of the Special Trustee for American Indians (OST) was created pursuant to the American Indian Trust Fund Management Reform Act of 1994, Pub. L. 103-412 (the Reform Act), and Secretarial Order 3197 (February 9, 1996) to oversee and coordinate Departmental reforms of practices relating to the management and discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians. The Office of Trust Funds Management (OTFM) is an organization within the OST which is charged with the responsibility, consistent with applicable laws and regulations, for accounting for and reporting trust fund balances, providing adequate controls over funds received into and disbursements from trust accounts, and investing trust funds.

The Bureau of Indian Affairs (BIA) is responsible for the management, collection and maintenance of information documenting title, trust asset ownership, and lease or other beneficial use relating to Indian trust and restricted lands and assets. The BIA is also responsible for assisting individual Indians with the management and use of their trust funds if they are minors or if they are determined to be in need of these services. These services may include supervision of or assistance with the financial management of Individual Indian Money (IIM) accounts and the distribution of judgment funds.

Both the OTFM and the BIA have shared and overlapping responsibilities to manage trust and restricted assets, including natural resources and trust funds, on behalf of Indian beneficiaries and in accordance with the Reform Act and all applicable authorities.

II. Statement of Purpose and Scope

This Memorandum of Understanding (MOU) provides the framework for cooperation and coordination among the BIA and the OTFM as these organizations carry out DOI's trust functions and trust responsibilities relating to accounting for, regulating and managing Indian trust and restricted assets and resources. The purpose of this MOU is to achieve an efficient and effective working relationship between the BIA and the OTFM in the fulfillment of the Department's goal of an improved process for the administration and management of trust assets and to effectively carry out the trust responsibility.

In executing this MOU, the BIA and the OTFM recognize:

1. The role of tribes and individual Indians as beneficial trust owners with authority to determine the development and use of Indian lands and resources, in accordance with applicable laws and regulations; and
2. The respective and interconnected roles of the BIA and the OTFM in managing Indian trust assets and trust funds.

Through this MOU the BIA and the OTFM will:

1. Work together to achieve the smooth and effective administration of Indian trust fund accounts, to clarify the respective roles and requirements of each agency, and to resolve conflicts that may arise between the agencies in the administration of trust funds; and
2. Develop and provide guidance to the field offices as to their respective responsibilities for managing trust funds.

III. Goals and Objectives

The specific goals and objectives of this MOU are to:

1. Create and maintain an Interagency Procedures Handbook (Handbook) which will assist employees of the BIA and the OTFM in delineating and understanding their roles and responsibilities in Indian trust fund management and administration;
2. Foster communication between the BIA and the OTFM on issues related to Indian trust fund accounts which may arise during the normal course of business practice and properly address changes in case law, legislation, regulatory authority or appropriate fiduciary practices; and
3. Create an Oversight Committee which will coordinate the development and implementation of policy guidance on issues which may arise from time to time during the implementation of the Handbook and as changes occur that affect trust fund accounts.

IV. Responsibility

As trustee for Indian trust lands and resources, the Secretary has overall responsibility for the administration, management, and accounting of trust assets. The BIA and the OTFM each are responsible for important aspects of the administration, management, and accounting of trust funds which will be set forth in the Handbook. Each agency will

contribute towards the development of the Handbook and share all relevant information necessary for completion of the Handbook. The BIA and the OTFM will identify individuals who will be responsible for the continuing development of the Handbook.

V. Information Exchange

The BIA and the OTFM will exchange data necessary to establish and manage the Indian trust fund accounts. Responsibility for the production and exchange of relevant and necessary information by each agency will be specifically set forth in the Handbook. Any forms created for the purpose of trust fund management and accounting will be exchanged between the BIA and the OTFM prior to distribution and implementation at the field level.

VI. Review of Regulations, Directives and Other Policy Documents

The BIA and the OTFM may issue regulations, directives and other policy documents that affect trust fund account activities. To the extent that such proposed issuances by one agency affect the operations of the other, each agency agrees to engage cooperatively in advance discussion and review of the draft issuance and resolve any differences prior to final issuance of the regulations, directives or other policy documents. Each agency will provide comments in a timely manner to the other regarding any draft issuance within ten (10) working days from the date of receipt of the draft document. If comments are not provided within ten (10) working days, it may be assumed that the reviewing agency has no comment unless the reviewing agency informs the requesting agency that additional time is necessary. Both agencies will accommodate reasonable requests for additional time. In the event that the BIA and the OTFM cannot resolve differences related to a policy or regulatory directive, then the Assistant Secretary Indian Affairs and Special Trustee will meet and resolve the issue.

VII. Agency Contacts

The BIA and the OTFM will identify principal points of contact for all matters arising under this MOU.

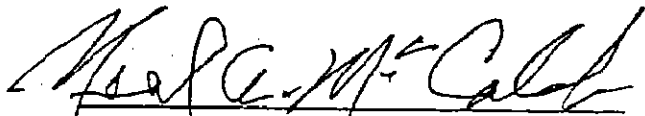
VIII. Oversight Committee

The Handbook contains provisions that may require additional procedures, periodic review and revision, and interpretation for specific cases. The BIA and the OTFM will each designate one senior staff member who together will constitute an Oversight Committee to oversee the implementation and updating of this MOU and the Handbook. The Oversight Committee will meet as necessary and at least once each year.

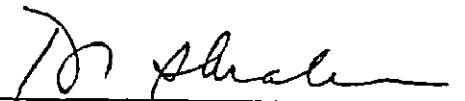
This MOU and its attachments, including the Handbook, are considered working

documents. Proposed substantive changes to the attachments will be presented to the Oversight Committee for approval. Technical changes may be incorporated through memoranda issued by the Chairperson and concurred with by the Deputy Commissioner for Indian Affairs and the Director of the Office of Trust Funds Management. The Oversight Committee may establish subcommittees as necessary to develop detailed analyses to assist in carrying out its duties.

This MOU will become effective upon the date of signature by the Assistant Secretary - Indian Affairs and the Special Trustee for American Indians. The Handbook will be supplemented and amended as legislation, court rulings, policies, regulations, or other authorities may require.



Assistant Secretary - Indian Affairs

5-30-02
Date

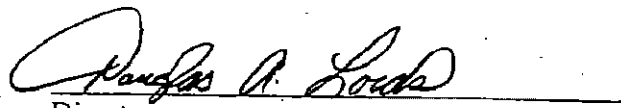

Special Trustee for American Indians

5/27/02
Date

Acknowledged:


Deputy Commissioner of Indian Affairs
Bureau of Indian Affairs

5/30/02
Date


Director
Office of Trust Funds Management

5/29/02
Date

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX C

**MEMORANDUM OF UNDERSTANDING
BETWEEN BIA AND OST
Dated June, 1998**

**“...defines the transfer of Indian financial trust records
from the Bureau of Indian Affairs to the Office of the Special Trustee.”**

**MEMORANDUM OF UNDERSTANDING
ON INDIAN TRUST FINANCIAL RECORDS AND
TRUST RESOURCE MANAGEMENT RELATED RECORDS**
between the
BUREAU OF INDIAN AFFAIRS
and the
OFFICE OF THE SPECIAL TRUSTEE
(The Parties)

I. PURPOSE:

This Memorandum of Understanding (MOU) defines the transfer of Indian financial trust records from the Bureau of Indian Affairs (BIA) to the Office of the Special Trustee (OST). It will specifically address the following items: (1) the identification by number of all financial trust records that have been transferred to the responsibility of OST, and the identification by number of all trust resource records that are the responsibility of BIA, (2) the OST and BIA temporary storage locations for the Indian trust records under their respective custodianship, (3) the identification of all trust related records and the procedures for joint access to both active and inactive trust records, and (4) the incorporation of the OST and BIA agreement to update the BIA and OST Records Schedules to accurately reflect all "frozen" trust funds related records.

II. AUTHORITIES:

This MOU is entered pursuant to Section 302 of Pub. L. 103-412, The American Indian Trust Fund Management Reform Act of 1994; Secretarial Order #3197 Section 5, dated February 9, 1996, 36 CFR Chapter XII, Part 1220, Subchapter B, Records Management; Disposition of Federal Records; and, Records Disposition Statutes in 44 U.S.C. Chapters 21, 29, 31, and 33.

The Parties will establish separate Records Schedules, Privacy Act Systems of Records, Freedom of Information Act (FOIA) programs, and applicable procedure manuals in accordance with 5 U.S.C. Section 552; Pub. L. 104-231 (1996); 36 CFR, NARA Standards; 43 CFR Part 2, Subparts A and B; and 383 DM 15, the Department of Interior (DOI) FOIA Handbook.

III. BACKGROUND:

Since its creation in 1824 the Bureau of Indian Affairs has been the custodian and manager of the official documents created in the normal daily business of managing Indian land resources; the BIA also managed the income from trust resources through 1996. However, in 1994 the American Indian Trust Fund Management Reform Act, Pub. L. 103-412, was enacted, which established the position of Special Trustee for American Indians within the Department of the Interior. The Special Trustee was charged with reforming trust funds management and related trust asset management functions of the BIA, Minerals Management Service (MMS), and Bureau

of Land Management (BLM). In 1996, DOI Secretarial Order 3197 created the Office of the Special Trustee for American Indians and moved the Office of Trust Funds Management (OTFM), the organization responsible for managing Indian trust funds, from the BIA to the OST. Section 5 of the Secretarial Order stated that appropriate records were to be transferred from BIA to OST to implement the transfer of OTFM.

Currently, the records management guidelines and procedures for trust records is the BIA Records Retention Schedule (16 BIAM, Appendix I of the Records and Files Disposition Handbook). This schedule includes retention and disposition schedules for Indian trust financial documents as well as for Indian trust resources records, but does not reflect the necessity of retaining these records in perpetuity. There is a need for the establishment of separate but compatible records management procedures and processes. This MOU is the initial step in the establishment of a comprehensive Indian trust records management program.

It was initiated by a memorandum dated December 3, 1996 from the Assistant Secretary - Policy, Management and Budget in which both agencies were directed to establish an agreement on the access and care of all financial "trust-related records." On August 22, 1997, the Secretary of Interior sent a memorandum to OST and BIA describing the Trust Improvement Project, which included a directive for OST and BIA to implement a "joint trust records management solution, which may include electronic records/imaging technology, developing and issuing policy and procedures manuals, providing staff and user training, and improving internal controls." As a result of the Secretary's memorandum, an internal directive was issued by OST and BIA on February 11, 1998 establishing a Records Management Working Group. The purpose is to accomplish the joint records management solution as envisioned in the Secretary's memorandum. This internal memo specifically directed that the MOU be established to cover trust records operational matters, including the development of joint procedures for records management. The accomplishments to be achieved by the Records Management Working Group are listed in Appendix 1.

IV. TERMS OF AGREEMENT:

A. Specific Items for Resolution.

1. BIA Transfer of Financial Trust Records to OST and Identification by Number of all Transferred Records As Well as Those Records Remaining in BIA Custody.

In accordance with the Secretarial Order, the BIA hereby transfers to OST the ownership, responsibility and control of the Trust Funds (4800) and IIM (4850) program records. This transfer includes all active and inactive financial trust accounting records. OST accepts responsibility for and will take custody of these same financial trust records, which are located at BIA areas and agencies, Federal Records Centers (FRCs), and the General Services Administration (GSA) Indian Trust Accounting Division. Custody is defined as all activities relating to the legal ownership, preservation, and management of these records. These two programs, as well as selected numbers from the 2500 series are deleted from the 16 BIAM

Appendix I record schedules effective immediately The remaining records in 16 BIAM belong to the BIA.

The following BIA record series, identified by the name and schedule number, are transferred to OST

a. 4800 - TRUST FUND RECORDS:

- (4801-P3) Security Account Files
- (4802-P10) Tribal Trust Accounts General Ledger files
- (4803-T3F) Indian Services Special Disbursing Agent (ISSDA) Report Files
- (4804-T3F) Monthly Check Reconciliation Listing files

b. 4850 - INDIVIDUAL INDIAN MONEY (IIM) RECORDS:

- (4851-P5) Individual Indian Money Case Files
- (4852a-P5) Individual Indian Money Ledgers and Cards
- (4852b-T0) Duplicates of IIM Ledgers and Cards
- (4853-P5) Individual Indian Money Posting and Control Records
- (4854-T3) Individual Indian Money Duplicate Posting and Control Records
- (4855a-T1) Individual Indian Money Name files
- (4855b-T0) IIM Magnetic Tape Data for IIM Name Files
- (4856a-T3) Individual Indian Money Balance Forward files
- (4856b-T3) IIM Magnetic Tape Data for IIM Balance Forward Files
- (4857-T3F) Cash Collection Files
- (4858a-T3F) General Ledger Detailed listings
- (4858b-T0) Magnetic Tape Data for General Ledger Detailed Listings
- (4859-T3F) IIM Deposit ticket files

Effective immediately, the following records identified by BIA from the 2500 series of the 16 BIAM, Records Schedule, created by the BIA accounting systems prior to 1992 are also transferred to OST:

c. 2500 - FINANCE SYSTEM TRUST RECORDS (PRE-1992):

- (2516-T3F) Statement of Transaction (SF-224) Files
- (2517-T3F) Nonexpenditure Transfer Authorization (SF-1151) Files;
- (2520-T3F) Journal Voucher Files
- (2521-T3F) Voucher & Schedule of Payment Files
- (2522a-T3F) Cash Documents by Appropriation Files
- (2524-T3F) Schedule of Canceled Checks (SF-1098) Files
- (2538a-T3F) Printout Copies of Certificate of Deposit Files
- (2540-T3F) Advice of Collection Files
- (2542-T3F) Unappropriated Receipts Trial Balance Files
- (2543-T3F) Special Disbursing Agent Files
- (2544-T3F) Trial Balance Files
- (2545-T3F) Reconciliation Statement Files

In addition, other financial trust related records will be identified at a later date for transfer to OST. These financial records are those which are not currently in use, or are beyond seven years old. This also includes other unidentified financial trust records dated prior to 1992 (pre-FFS). Both parties will work jointly to ensure proper identification, notification, and transfer of these records. Upon identification and determination that these records are no longer required by BIA, they will be removed from the 2500 series. OST will then include these specific record categories in its records schedule.

It is recognized by both parties that many of BIA trust records which are listed as "temporary" and which are therefore subject to destruction, must be reevaluated regarding their disposition. These records must also be preserved in perpetuity to meet the Department's fiduciary responsibility, and for litigation requirements. OST will work with BIA to provide justification and negotiate with NARA to assure that records are protected and secured in perpetuity.

2. OST and BIA Temporary Storage Locations for Indian Trust Records.

Both parties will provide the temporary storage location and complete inventory listing of all records, to include those removed by the other agency. The inventory list will provide the location from which the records were pulled. When applicable, the information must include copies of all OF-11s or other transmittal material, which identifies categories of records, as well as the number of boxes and/or the amount of cubic feet of records removed from FRCs, Areas, Agencies, and warehouses to storage locations.

The physical transfer will include a transmittal memorandum prepared by the party removing records and provide an inventory for each shipment per BIA, OST and/or FRC location. Both parties will sign the memorandum of each shipment removed from a location. A Detailed Inventory (folder by folder description) is preferable and advantageous to both agencies. However, when time is of the essence, both parties may provide a High Level Inventory for each box. At a minimum, a High Level Inventory consists of the general description of the types of documents within the box, the applicable fiscal year(s), and the originating area or agency. For those boxes received with a High Level Inventory, the agency will create a Detailed Inventory, and provide a copy to the BIA or OST's Records Officer.

3. Access to OST and BIA Active and Inactive Trust Related Records.

Both parties agree to provide access to their active and inactive records to conduct daily government business. OST has listed a portion of their trust access request from BIA as Appendix 2. Access shall be made by on-site inspection, review, and copying. Both parties agree to provide written notice to the facility director to perform research, pick up or ship records. Both parties agree to use the OF-11, the official federal form, for records retrieval from BIA, OST, FRC, and ITAD locations. The OF-11 form must be completed and attached to the written request for tracking. Access and retrieval standards are in accordance with National Archives and Records Administration (NARA) regulations, 36 CFR 1222 and 1228. A request for access will describe the required use of the records such as research, copy and other requirements for the use of the records. The cost of shipping or special handling, if required, will be borne by the requesting agency unless both agree as part of the authorization to provide the service.

Both parties agree to notify the other at the end of retention periods and/or of the pending destruction of trust records. Both agencies agree to offer portions of temporary federal records to the other agency at a time nearing the end of the NARA approved retention time periods or at the time nearing NARA approved scheduled destruction dates. Only those categories of records required to assist each agency fulfill trust or fiduciary obligations or to support litigation or settlement will be offered. Signatory approval of each official transfer must be acquired from the agency having custody. Both parties will continue to transfer permanent federal records to the National Archives and Records Administration for archival and historical purposes at the end of the NARA approved retention time periods. Both parties will then initiate a methodology to review the BIA trust related records to determine which of them will be retained for fiduciary and/or trust responsibilities.

Both parties agree to return records in their custody when these records are no longer required to support the Tribal Reconciliation, litigation or settlement processes. Each party agrees to pay the cost of shipment, and restoration to the original order of individual files, whenever possible. If this is not possible because the number and/or the order of records no longer matches the Official Transmittal forms (SF-135) or inventory lists, then new accession numbers must be developed. Both agencies agree to work together to resolve this problem.

Both parties agree that active program records from the other agency will not be removed from the site. Also, both parties agree not to authorize third party access to the other party's records or to authorize transfer, access, or removal of the other party's records from ITAD, FRC's, Areas, and/or Agencies unless the proper party provides written authorization.

4. BIA and OST will Jointly Establish Compatible Records Retention Schedules Which Will Update and Reflect the Status of "Freeze" Trust-Related Records. Both parties agree to establish compatible Records Schedules, which will cross-index trust records, using similar numbering formats and/or identifiers for retrieval purposes. Each Record Schedule will include electronic database systems shared by both agencies. In addition, these schedules will address the "Freeze" trust-related records. Notification will be given to GSA, Indian Trust Accounting Division (ITAD) as to which Freeze categories have been transferred to OST from BIA. Both agencies will assume responsibility for the Freeze mandate with the transfer of frozen records. Both parties agree to implement the Freeze policy mandated by the ITAD for accounting records in accordance with the ITAD freeze. Both parties agree that a Freeze identification will remain on the Record Schedules to identify Freeze records. These records may not be disposed until such time as the Freeze has been lifted.

B. General Records Issues

1. Record Schedules, Privacy Act and FOIA Handbooks and Operations.

Both parties agree to establish separate Records Management Handbooks, Freedom of Information Act (FOIA) operations, and Privacy Act Systems of Records. Both parties agree to designate FOIA/Privacy Act Coordinators at Area and Agency locations, who will be responsible for each party's daily operations. Both parties agree that Records Liaisons will be designated for

program offices at all locations where OST and BIA records are created, maintained and disposed. Both parties agree that access to the other agency's records will be provided on a routine basis, and that access to Privacy Act System of Records will be as "routine users" in accordance with the Privacy Act.

V. DURATION OF AGREEMENT:

A. Effective Dates.

This MOU shall be effective upon the date of signature and shall remain in effect until amended or mutually terminated by the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians.

B. Terms of Agreement for Amendments.

Both parties must be in agreement prior to any amendments, changes or termination of this MOU.

VI. MANAGEMENT OFFICERS:

In accordance with the February 11, 1998 memorandum signed by the Deputy Special Trustee for Operations, OST, and the Acting Director, Management and Administration, BIA, the Records Management Working Group Co-leaders were established and are listed herein. Each Co-leader shall designate employees for the workgroup, or as team members. These names and addresses of the Management Officers designated as Co-leaders are:

Mr. Joe Christie
Special Assistant to the Special Trustee
Office of the Special Trustee for
American Indians
505 Marquette NW, Suite 1000
Albuquerque, NM 87102
(505) 248-5735
(505) 248-5741 (Fax)

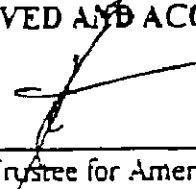
Mr. George Gover
Director, Office of Information
Resources Management
Bureau of Indian Affairs
P.O. Box 888
Albuquerque, NM 87103
(505) 248-7197
(505) 248-7010 (Fax)

VII. FINANCIAL INFORMATION:

This MOU requires no exchange of funds.

CX. SIGNATURES:

APPROVED AND ACCEPTED FOR THE OFFICE OF THE SPECIAL TRUSTEE:



Special Trustee for American Indians

May 9, 1998

Date

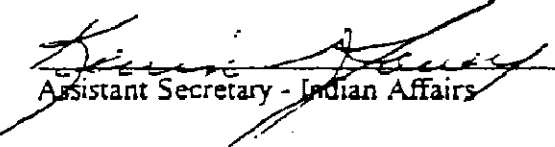
APPROVED AND ACCEPTED FOR THE BUREAU OF INDIAN AFFAIRS:



Deputy Commissioner of Indian Affairs

May 19, 1998

Date



Assistant Secretary - Indian Affairs

May 20, 1998

Date

APPENDIX I

GOALS AND OBJECTIVES OF RECORDS MANAGEMENT WORKING GROUP

The primary goal of both organizations is to establish and maintain records management systems for Indian records based on the trust responsibility and fiduciary trust concepts. These systems, which will include separate Records Schedules, will ensure that trust records will be preserved in perpetuity to ensure the fiduciary trust accountability of the United States to the American Indian tribes and individuals. Other specific goals which will be managed jointly are as follows:

- Establish a Joint Records Management Working Team for all trust records;
- Resolve records management issues through the use of shared manpower and budgetary resources for all trust records;
- Stabilize and strengthen records management positions within both organizations, given available budgetary resources;
- Develop auditable trust filing systems;
- Use electronic information technology for trust records, which may include imaging technology;
- Improve records management internal controls;
- Develop complementary policies, procedures, operational standards, training and evaluation for trust records management;
- Automate records schedules and inventories for employees access and research via the LAN

APPENDIX 2

BIA TRUST RECORDS THAT WILL BE ACCESSED BY OST

OST requires access to BIA trust and trust-related records. Access by OST will include, but not be limited to the following BIA records:

1. EXECUTIVE FILES

- (1214-P3) Long-Range Development Plans
- (1215-T3) Program Evaluation Files
- (1227-P3) Congressional Investigative Files
- (1228a-P5) Litigation Case Files

2. ADMINISTRATIVE FILES

- (2304-T3F) Interagency Agreement Case Files
- (2306-P3) Indian Self-Determination Grant/Contract Files
- (2312-T3F) Contract or Purchase Transactions Files
- (2853-T3F) Purchase Order Files

3. AUTOMATED DATA PROCESSING SYSTEM FILES

- (2220) Integrated Records Management System (IRMS) distribution work sheets, accounting documents needed for a full audit of trust programs related to actual distribution of funds; not including ownership or lease, unless payment is involved.

4. 2500 - FINANCE SYSTEM TRUST RECORDS

- (2501a-T1) Monthly Tapes of Accounting Master File
- (2501b-T4) Year End Final Tapes of Accounting Master File
- (2501c-T0) Printout Copies of Accounting Master File
- (2502a-T0) Printout Copies of Tribal Appropriations Files
- (2502b-T0) Magnetic Tape Data of Tribal Appropriations Files
- (2504a-T3F) Certificates of Final Settlement Files and GAO Settlements - Trust Funds
- (2504b-T0) Periodic Certificates of Settlement Files - Trust Funds
- (2505-T6.3) Documents Master File
- (2506a-T1) Daily Input Audit Trail Files
- (2506b-T0) Magnetic Tape Data of Daily Input Audit Trail Files
- (2507a-T1) Daily Input Register Files
- (2507b-T1) Magnetic Tape Data of Daily Input Register Files
- (2512a-T4) Subsidiary Ledger Files
- (2514a-T0) Transaction History Files
- (2514b-T6.3) Magnetic Tape Data of Transaction History Files
- (2515a-T3F) Printout Copies of Monthly Journal of Transaction Files
- (2515b-T0) Magnetic Tape Data of Monthly Journal of Transaction Files

- (2515a-T0) Other Copies of Monthly Journal of Transaction Files
- (2519-T3F) Public Voucher (SF-1034) Files
- (2522b-T0) Magnetic Tape Data of Cash Documents by Appropriation Files
- (2522c-T0) Other Copies of Cash Documents by Appropriation Files
- (2523-T3) Daily Disbursement Report Files
- (2526-T3F) Appropriation Warrant Files
- (2527-T3F) Fund Distribution Documents
- (2535a-T2) Printout Copies of Program Planning and Evaluation Master Files
- (2535b-T0) Magnetic Tape Data of Program Planning and Evaluation Master Files
- (2537a-T3F) Printout Copies of Construction Progress Status Report Files
- (2537b-T0) Magnetic Tape Data of Construction Progress Status Report Files
- (2538a-T3F) Magnetic Tape Data of Certificate of Deposit Files
- (2539a-T3F) Paid Voucher Files
- (2539b-T0) Magnetic Tape Data of Paid Voucher Files
- (2541-T3F) Statement of Receipts (SF-108) Files
- (2548-T3) Debt Collection Files

5. SOCIAL SERVICES FILES

- (3601-T5) General Assistance Case Files (Related to IIM Loans and IIM Holds on Accts)
- (3602-T5) Child Welfare Case Files (Related to Minor IIM Accounts)

6. TRIBAL GOVERNMENT FILES

- (3707-P3) Tribal Attorney Contracts;
- (3711a-P5) Judgment Rolls System Files;
- (3713-P10) Per Capita Payment Records;
- (3715-P50) Enrollment Appeals;
- (3717-P5) Judgment Per Capita Appeals.

7. CREDIT FILES

- (4202a-T10) Indian Loan Case Files

8. ENVIRONMENTAL QUALITY SERVICES FILES

- (4302-P3) Environmental Control Files

9. FORESTRY FILES

- (4401-P10) Timber Management Plans
- (4418-P10) Annual Agency Forestry Report
- (4419-P10) Annual Area Forestry Report
- (4420-P10) Timber Trespass

- (4421-P10) Fire Trespass
- (4422-P10) Cumulative Forestry Comparative Statements

10. RANGE MANAGEMENT FILES

- (4501-P10) Natural Resource Management Files
- (4512-P10) Water Rights Case Files
- (4515-P10) Herd Management

11. REALTY FILES

- (4601-P5) Land Allotment Case & Assignment Records Case Files
- (4602-P5) Land Allotment Case Files
- (4603-P5) Land Assignments
- (4604-P5) Patents, Fees and Certificates of Competency,
- (4606-P3) Land Plat Books
- (4607-P3) Land Tract Books
- (4608-T5) Aborted Land Transaction Files
- (4614-P2) Acquired Sub-Marginal Land Books
- (4617-P3F) Land Lease Accounting Files
- (4618-P5) Indian Land Lease Case Files
- (4620-P3) Nation-wide Oil & Gas Bond Files
- (4621-P5) Mineral Resources Inventory Agreement Files
- (4623-T2) Real Property Insurance Policies
- (4630-P3) Heirship Files
- (4631-P3) Individual Indian Probate Case Files
- (4632-P5) Range Heir Files
- (4633-P3) Twenty-Day Case Files;
- (4634-P5) Master Land Description File
- (4635a-P5) Land Chain of Title Plant Files
- (4636-P5) Individual Chain of Title Files
- (4641a-P5) LRIS Geographic Location Directory
- (4642a-P5) LRIS Reservation Directory
- (4643-P5) Indian Land Records
- (4644-P5) Indian Trust Land Mortgages
- (4645-P5) Restriction Removal Files

12. IRRIGATION AND POWER FILES

- (4902-P3) Irrigation Project Planning Case Files
- (4904-P3F) Irrigation and Power Construction Project Files
- (4909-T3F) Irrigation and Power Meter Books
- (4910-P3) Irrigation and Water Rights Legal Case Files
- (4911-T3F) Indian Electric Power Utilities
- (4913-T0) Power Customer Billings
- (4914-T3F) Irrigation/Power Customer Account Ledger Sheets and Schedules

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX D

FORMS

Individual Indian Monies (IIM) Account Set-Up Supplemental Information Sheet

Office of Trust Funds Management

If you have any questions call OTFM at: 1-888-OST-OTFM (1-888-678-6836) TOLL FREE NUMBER

TO: IIM Account Holder

A new IIM account has been established for you due to: Realty - Probate Realty - Land Sale Judgement Proceeds Other
 In order to complete the account set-up, we need the information requested below. Please complete this form, sign (Signature must be notarized or a Department of the Interior employee must witness.), date and return in the enclosed envelope.

1	NAME OF ACCOUNT HOLDER	First	Full Middle Name	Last	Suffix (e.g. Jr.)
	OTHER NAMES USED (Maiden or Also Known As, etc.)	First	Full Middle Name	Last	Suffix (e.g. Jr.)
2	MAIDEN NAME OF ACCOUNT HOLDER'S MOTHER				
3	SOCIAL SECURITY NO. (Must complete the attached W-9 form.)	_____			
4	DATE OF BIRTH (MM/DD/YY) (Must attach a copy of birth certificate if a minor, under 18 years of age.)				
5	STATEMENT ADDRESS (The address where your statement is mailed.)	ADDRESS: _____ Street Address, PO Box, Rural Route			

		Apt. No., Building Name, Rural Route Box			
		City	State	Zip Code	
6	CONTACT TELEPHONE NUMBER(S)	() _____ Area Code Number	() _____ Area Code Number		
7	Prior to disbursements being made, an Authorization for Disbursement of Funds form must also be completed if applicable.				
8	SIGNATURE OR THUMBPRINT (Must be either notarized or a Department of the Interior employee must witness. Complete the back of this form.)				
9	YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS: <input type="checkbox"/> Self <input type="checkbox"/> Natural or Adoptive Parent <input type="checkbox"/> Legal Guardian (Attach a copy of Court Order.)				
) TODAY'S DATE (MM/DD/YY)				

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

The information requested on this form is required for the purpose of disbursing money by a federal agency. All information provided above is protected under the U.S. Privacy Act which states that the IIM Account information can be provided only to employees whose duties require access. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number.

Individual Indian Monies (IIM) Account Set-Up Supplemental Information Sheet

Office of Trust Funds Management

If you have any questions call OTFM at: 1-888-OST-OTFM (1-888-678-6836) TOLL FREE NUMBER

COMPLETE THE APPROPRIATE SECTION BELOW:

This section must be completed for all requests. However, if a notary is not available, you must have a Department of the Interior (DOI) employee witness your signature or thumbprint and the DOI employee must complete Section 11B.

11 A	Notary of Account Holder's Signature or Thumbprint Notary Public Stamp	STATE OF: _____ County of: _____ On this _____ day _____, 20____, personally appeared before me and signed the foregoing instrument. And I acknowledge that he/she signed the same. _____ NOTARY PUBLIC Signature State of: _____ Printed Name of Notary Public My Commission Expires: _____
-----------------	--	---

11 B	DOI Witness of Account Holder's Signature or Thumbprint DOI Witness Signature	_____ Printed Name of DOI Witness Title & Office Date Address: _____ Street Address, Apt. No., PO Box, Rural Route Telephone Number _____ City State Zip Code
-----------------	--	--

DO NOT WRITE BELOW THIS LINE (FOR OTFM USE ONLY)

RECEIVED BY OTFM Employee:	Date:
Signature:	Print Name:

IIM ACCOUNT NUMBER	
---------------------------	--

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

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Individual Indian Monies (IIM) Authorization for Disbursement of Funds
 Office of Trust Funds Management
 If you have any questions call OTFM at 1 - 888 - OST - OTFM (1-888-678-6836) TOLL FREE NUMBER

1	IIM ACCOUNT NUMBER (If Known)				
2	NAME OF ACCOUNT HOLDER	First	Full Middle Name	Last	Suffix (e.g. Jr.)
	OTHER NAMES USED (Maiden or Also Known As, etc.)	First	Full Middle Name	Last	Suffix (e.g. Jr.)
3	DATE OF BIRTH (MM/DD/YY) And SOCIAL SECURITY #	(D.O.B.)	(S.S. #)		
4	CONTACT TELEPHONE NUMBER	()	Number	()	Number
5 A	PAYMENT REQUEST (Before you complete this section, please read the instructions on the back of this form)	<input type="checkbox"/> I request all of my IIM funds be paid to me when the account balance reaches the minimum threshold amount, OR <input type="checkbox"/> I request a voluntary hold on my IIM account funds until I notify you otherwise.			
5 B	VOLUNTARY HOLD PAYMENT TYPE (Before you complete this section, please read the instructions on the back of this form)	If a voluntary hold is requested in 5A above, and you want payments made to you or a third party on specific dates please complete the following:			
		<input type="checkbox"/> One-time Disbursement - I request the following amount be paid: Date _____ Amount _____			
		<input type="checkbox"/> Schedule payments of my IIM account funds as follows:			
		Frequency	Date(s)	Amount	
		<input type="checkbox"/> Monthly, OR <input type="checkbox"/> Quarterly, OR <input type="checkbox"/> Other (weekly, biweekly, etc.)			
		Payable To:			
		Name: _____		Address: _____	

6	METHOD OF PAYMENT (Before you complete this section, please read the instructions on the back of this form, method of payment includes both payments for voluntary holds and third party payments.)	<input type="checkbox"/> By Check (NOTE: OTFM will send the check to the account address of record unless the payee is other than the account holder or a direct deposit.) <input type="checkbox"/> Direct Deposit per previously provided instructions. <input type="checkbox"/> New or Update Direct Deposit information. (Attach a voided check or deposit slip. If neither is available, have your financial institution complete the following information.) Routing #: _____ Account #: _____ Name on the Account: _____ <input type="checkbox"/> Checking <input type="checkbox"/> Savings Financial Institution Name: _____ Financial Institution Address: _____			
7	YOUR SIGNATURE OR THUMBPRINT (Must be either notarized or a Department of the Interior employee must witness. Complete back of form.)				
8	TODAY'S DATE (MM/DD/YY)				

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

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Individual Indian Monies (IIM) Authorization for Disbursement of Funds

Office of Trust Funds Management

COMPLETE THE APPROPRIATE SECTION BELOW:

This section must be completed for all requests. However, if a notary is not available, you must have a Department of the Interior (DOI) employee witness your signature or thumbprint and the DOI employee must complete Section 10A & B.

9	Notary of Account Holder's Signature or Thumbprint <div style="text-align: center;">Notary Public Stamp</div>	STATE OF: _____ County of: _____ On this _____ day _____, 20____, _____ personally appeared before me and signed the foregoing instrument. And I acknowledge that he/she signed the same. _____ NOTARY PUBLIC Signature Printed Name of Notary Public State of: My Commission Expires:
10 A	DOI Witness of Account Holder's Signature or Thumbprint _____ DOI Witness Signature	_____ Printed Name of DOI Witness Title & Office Date Address: _____ Street Address, Apt. No., PO Box, Rural Route Telephone Number _____ City State Zip Code
10 B	Verifiable Identification of Account Holder. <input type="checkbox"/> Copy Attached (e.g. Drivers License, State I.D., Government I.D., or Tribal I.D.)	TYPE: _____ NUMBER: _____

DO NOT WRITE BELOW THIS LINE (FOR OTFM USE ONLY)

Disbursement Authorizing Official	Date: _____	Date: _____
	Signature: _____	Signature: _____
	Print Name: _____	Print Name: _____

INSTRUCTIONS FOR COMPLETING ITEMS 5 AND 6

- Item 5A** Check (✓) only one box:
- If you check the first box, an automatic payment will be made whenever the account balance reaches the minimum threshold.
 - If you check the second box, a voluntary hold will be placed on your account. This hold will remain on your account until you notify us in writing to release the hold. Disbursements from your account will only be made in accordance with written authorization received from you.
- Item 5B** If you requested a voluntary hold by checking the second box in 5A, the funds may be released in the following manner:
- If you check the One-time Disbursement box, a payment will be made to you or a third party for the amount and date specified. If you want the payment to be made to a third party you must complete the Third Party Section.
 - If you check the Schedule Payments box, you may have the funds disbursed to you or a third party according to a scheduled payment plan. If you want the payment to be made to a third party you must complete the Third Party Section. Payments may be monthly, OR quarterly OR any other timeframe. You must indicate the exact date(s) and exact dollar amount(s) to be made, e.g., pay to First National Bank \$200 on the 15th of each month. Instructions such as "until loan is paid off" are NOT acceptable and payments will not be processed. If sufficient funds are in the account the day that a scheduled payment is to be made the payment will be made. If sufficient funds are NOT in the account and therefore unavailable, the account will not be overdrawn and a notice of non-payment will be mailed to the account holder's address of record (statement address).
 - If you complete the third party payment section (name and address), this means the disbursement will be made payable to someone other than the account holder, i.e., the third party.
- Item 6** Check (✓) only one box.
- If you are requesting a check, mail time from Albuquerque, New Mexico varies dependent on the destination. The use of the DIRECT DEPOSIT function will place the funds directly into your checking or savings account on the same day a check would be mailed. In addition to faster availability of funds, direct deposit safeguards against lost, stolen or forged checks.
 - If you check direct deposit per previously provided instructions, this indicates that you have previously provided OTFM with your checking or savings account information. Your deposit will be made in accordance with the instructions on file with OTFM.
 - If you check New or Update Direct Deposit Information, this indicates that your funds will be deposited directly into a checking or savings account at the financial institution of your choice. Check this box if you are changing financial institution or the account number has changed.
 - If you want a direct deposit and do not have the deposit slip or voided check, you must obtain the necessary information from your financial institution. For third party direct pay, you must have that person/party provide the necessary information.

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

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Individual Indian Monies (IIM) CHANGE OF ADDRESS REQUEST

Office of Trust Funds Management

If you have any questions call OTFM at: 1 - 888 - OST - OTFM (1-888-678-8836) TOLL FREE NUMBER

THIS FORM IS TO BE USED TO CHANGE YOUR STATEMENT ADDRESS AND/OR THE ADDRESS WHERE YOUR CHECK WILL BE MAILED. If you would like to receive your funds by Direct Deposit at your financial institution or you would like to update your Direct Deposit information, DO NOT COMPLETE THIS FORM, but do complete the IIM Authorization for Disbursement of Funds Form.

1	IIM Account No. (If known,) OR Tribal Enrollment No. (If known) OR Leave Blank				
2	NAME OF ACCOUNT HOLDER	First	Full Middle Name	Last	Suffix (e.g. Jr.)
	OTHER NAMES USED Maiden OR Also Known As, etc.)	First	Full Middle Name	Last	Suffix (e.g. Jr.)
		First	Full Middle Name	Last	Suffix (e.g. Jr.)
3	STATEMENT ADDRESS CHANGE (The address where your STATEMENT will be mailed.) FROM (Old Address) TO (New Address)				
	ADDRESS: _____ Street Address, PO Box, Rural Route Box _____ Apt. No., Building Name _____ City State Zip Code	ADDRESS: _____ Street Address, PO Box, Rural Route Box _____ Apt. No., Building Name _____ City State Zip Code			
4	CHECK ADDRESS CHANGE (The address where your CHECK will be mailed. Complete only if the address is different from your statement address.)				
	<input type="checkbox"/> Mark this box if the check(s) are to be mailed to same address as statements in number 3 above.	ADDRESS: _____ Street Address, PO Box, Rural Route Box _____ Apt. No., Building Name _____ City State Zip Code			
5	DATE OF BIRTH (MM/DD/YY)				
6	SOCIAL SECURITY NO.	_____ - _____ - _____			
7	CONTACT TELEPHONE NUMBER(S)	()	_____	()	_____
		Area Code	Number	Area Code	Number
8	YOUR SIGNATURE OR THUMBPRINT Must be either notarized OR a Department of the Interior Employee must witness. Complete the back of this form.				
9	YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS: <input type="checkbox"/> Self <input type="checkbox"/> Custodial Parent <input type="checkbox"/> Legal Guardian				
10	DATE SIGNED (MM/DD/YY)				

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

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Research Request

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS (OSTAI) OFFICE OF TRUST RECORDS (OTR)

Branch of Research & Analysis
1551 Mercantile NE, Suite C
Albuquerque, NM 87107
505-816-1400 FAX: 505-816-1420

REQUESTER INFORMATION:

Date:	First Name:	MI:	Last Name:	
BIA - OTFM Office:		Address:		
Email:	Telephone:	Fax:		
Requestor's Organization: (Check One)				
<input type="checkbox"/> OTFM	<input type="checkbox"/> OTR	<input type="checkbox"/> OST	<input type="checkbox"/> BIA	<input type="checkbox"/> Other

DOCUMENT(S) REQUEST INFORMATION:

Account Last Name - Tribe Name	Account MI:	Account First Name:
Account Number:		
Office/Agency where Record Initiated:	Document Date or FY:	
Document Type Or Description:		
Document Number If Applicable:	Dollar Amount If Applicable:	
Requester's Signature:	FTSO/RTA or OTFM CO Supervisor verification required for BIA, Tribal, and complete folder contents. Printed Name & Signature:	

ADDITIONAL INFORMATION:

The Privacy Act of 1974, Public Law 93-579, Title 5 USC Section 552a. No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be - (1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties.... Criminal Penalties. - Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information; the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX E

**INSTRUCTIONS FOR CREATING
IIM ACCOUNT NUMBERS**



IN REPLY REFER TO:
Division of Quality Assurance

United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Office of Trust Funds Management
505 Marquette N.W. Suite 1000
Albuquerque, New Mexico 87102

APR 12 2002

PRO02-001

OFFICE OF TRUST FUNDS MANAGEMENT (OTFM) PROCEDURE MEMORANDUM

To: Division Chiefs, OTFM
Financial Trust Services Officers, OTFM
Trust Accountants, OTFM
Field Operations Personnel, OTFM

From: **ACTING** Director, OTFM *Margaret Williams*

Subject: Procedures for Assigning Individual Indian Money (IIM) Account Numbers and Identification (ID) Numbers

EFFECTIVE DATE: APRIL 15, 2002

This memorandum establishes a standard procedure and format for the Office of Trust Funds Management (OTFM) IIM account number and Bureau of Indian Affairs (BIA) ID number, and the requirements for assigning the numbers. Both agencies are issuing this memorandum simultaneously. This memorandum supersedes any previous directive regarding this practice.¹ You are directed to instruct your contracting offices to amend any non-tribal contracts through which these functions are performed on behalf of the BIA or the OTFM. You are further directed to encourage tribal contractors carrying out financial trust services programs in your jurisdiction to adhere to this policy to promote consistent practices to enhance trust reform.

All new accounts must be in compliance with this policy. This will ensure that the unique BIA ID numbers and the associated IIM account numbers will continue to retain their uniqueness, not disrupt the normal use of those numbers, and BIA and OTFM staff will all be using a common method of assigning account/ID numbers until such time as a new common system is developed. We do not intend at this time to commence a global clean up effort to bring accounts established prior to April 15, 2002, into compliance with this policy. However, if in the course of performing daily operational duties an existing account is discovered that does not comply with this policy, the account must be brought into compliance with this policy. This policy, once

¹ Specifically, the Memoranda dated December 4, 2000, and March 2, 1989, are revoked; to the extent they are inconsistent with this directive.

effective, shall remain in effect until revoked or superseded by future directives.

Below are the guidelines for assigning numbers:

1. Categories: There are four categories of accounts as illustrated in the following table.

Category No.	Category Description	Resulting numbers for OTFM and BIA:		Agency Responsible for assigning the number:
		IIM Account No.	BIA ID No.	
I	Individuals with a direct interest in trust or restricted land.	IIM Account No.	BIA ID No.	BIA
II	Individuals with a life estate, dower or curtesy, or homestead interest in trust or restricted land.	IIM Account No.	BIA ID No.	
III	Individuals with proceeds resulting from other agency income (i.e. Veterans Affairs or Social Security).	IIM Account No.		
IV	Individuals with proceeds resulting from tribal, judgment per capita distributions.	IIM Account No.		OTFM

2. IIM Account / ID Number Size:

A. Background:

- i. OTFM IIM Account Numbers: Account numbers currently assigned to IIM Account holders and maintained within the Trust Fund Accounting System (TFAS) by the OTFM consist of ten (10) characters. However, the TFAS is capable of expanding to twelve (12) – character account numbers.
- ii. BIA ID Numbers: ID numbers currently assigned by the BIA consist of ten (10) characters. However, the Land Title and Records Office (LTRO), Southwest Region, has identified a need to increase the size of the ID number due to the Navajo Region having reached ID numbers in the 900,000's. It is anticipated that eleven (11) – character ID numbers will soon be needed for the Navajo Region.

*The Trust Asset and Accounting Management System (TAAMS) title system is designed to accommodate twelve (12) – character ID numbers.

B. Policy:

The use of the existing ten (10) - character numbers will remain the standard for the assignment of IIM account numbers and ID numbers. The BIA and the OTFM currently have the flexibility to increase the size of the IIM account numbers and the

* NOTE: The following is deleted from OTFM's version of this procedure memo: "The Trust Asset and Accounting Management System (TAAMS) is the system of record for current title information at four LTROs."

ID numbers. Therefore, as the need arises, both BIA and OTFM offices may expand IIM account numbers and ID numbers to eleven (11) or twelve (12) characters.

At this time there will not be an automatic conversion from ten (10) – character numbers to twelve (12) – character numbers.

3. Account/ID Number Format:

Illustration of the number format: 123 A 12345678

123	=	3-digit numeric code – <i>Tribe Code or Land Area Code or Regional Corporation Codes;</i>
A	=	1-digit Alpha character – <i>Class Code (also known as Alpha Code); and</i>
123456	=	6-digit number (current minimum size) – <i>unique sequential number or enrollment number</i>
		or
1234567 or 12345678	=	7- or 8-digit number, as needed, for expansion of IIM account number or ID number

A. Three (3)-Digit Numeric Code – Constitutes a *Land Area Code or Regional Corporation Code or Tribe Code*:

i. *Land Area Code* identifies the reservation on which the trust or restricted land is located or the location of the restricted land in which an *interest* is being established for a *non-Indian, including non-Indian life estate, dower or curtesy, or homestead owners.*

OR

ii. *Regional Corporation Code* identifies where:

- An Alaska Native is enrolled; or
- An Alaska Native individual granted a life estate, dower or curtesy, or homestead interest is enrolled; or
- A non-enrolled Alaska Native is affiliated (lineal descendent).

OR

iii. *Tribe Code* identifies the federally recognized tribe where:

- An individual Indian is enrolled; or
- An individual Indian granted a life estate, dower or curtesy, or homestead interest is enrolled; or
- A non-enrolled individual Indian is affiliated (lineal descendent).
 - In order to establish consistency within the BIA in the use and assignment of a non-enrolled individual Indian (lineal descendent),

Program Offices must assign the Tribe Code of the tribe for an individual non-enrolled Indian in the following priorities:

- The tribe to which the individual's father is or was a member;
- The tribe to which the individual's mother is or was a member;
- The tribe to which the individual's grandfather is or was a member;
- The tribe to which the individual's grandmother is or was a member;
- The tribe on whose reservation the individual owns one (or more) trust interest in trust income producing land;
- The tribe on whose reservation the individual owns the most interests in land;
- The tribe on whose reservation the individual owns an interest in land; or
- The tribe with the closest proximity to the residence of the individual.

If none of the above criteria determines which Tribe Code should be assigned to the individual, then the Regional Office will select the Agency Office with the strongest contacts and assign the individual Indian that Agency Location Code and the individual's Tribe Code. The Agency Office with jurisdiction over the tribe indicated by the Tribe Code will be responsible for maintaining all personal records and for the preparation of the OHA-7.

In situations where a non-enrolled individual Indian owns interests in lands of different reservations under the jurisdiction of more than one Agency, each Agency shall process all records and transactions regarding the non-enrolled individual Indian's land ownership interests that are under the jurisdiction of that Agency, using the non-enrolled individual's Tribe Code assigned pursuant to criteria stated in this policy.

The use of "generic" Tribe Codes for non-enrolled individual Indians, e.g. "100N" or "500N", shall be discontinued and such "generic" Tribe Codes replaced with Tribe Codes determined using the criteria stated in this policy.

B. One (1) -Character, Alpha - Class Code (also known as the Alpha Code):

The Class Code identifies the account type established for the individual. It is determined as follows:

- i. Class Codes for IIM account/ID numbers for individuals with a direct interest in trust or restricted land are:

A – Original Allottee: An Indian allotted lands by Chapter 9 of Title 25, United States Code.

U – Unallotted Indian: An enrolled Indian other than an original allottee.

N – Non-Enrolled Indian: An Indian not enrolled in any Tribe (lineal descendent). If a non-enrolled Indian receives only a life estate, refer to Class Code B.

R – Unknown Remainderman to Life Estate, Dower or Curtesy, or Homestead Interests:

This is an account created where an interest for an *unknown* remainderman exists in a diminishable resource, such as minerals. The “R” will be used instead of the Class Code “U” to distinguish it from an enrolled Indian other than an original allottee. The “R” code is used *only* for unknown remaindermen.

X – Fee Interest Owner.

ii. Class Code for IIM account/ID number for an individual with a life estate, dower or curtesy, or homestead interest is:

B – Life Estate, Dower or Curtesy, or Homestead Interests: These interests are generally associated with the exclusive right to receive income, to use land, or both. Individuals may have been deeded or devised one or more exclusive rights but can only have one “B” account. This Class Code must be used for both Indian & non-Indian individuals. Non-enrolled Indians who are assigned a Class Code of “B” shall be treated as Indian *only* for purposes of probating the individual’s trust estate.

iii. Class Code for IIM account numbers for individuals resulting from tribal or judgment per capita distributions are:

J – Judgment Per Capita Payment. Used only for:

Supervised accounts:

- Minors or emancipated minors; and
- Adults – Individuals determined to be *non compos mentis*, or adults in need of assistance or under legal disability;

and

Estates:

- *One-time only* after the death of an individual whom the Secretary has determined is eligible to receive judgment funds, but distribution takes place before the decedent’s trust estate is probated.

P – Tribal Per Capita Payment. Used only for:

Supervised accounts:

- Minors or emancipated minors; and

- Adults – Individuals determined to be non compos mentis, or adults in need of assistance or under legal disability;

and

Estates:

- *One-time only* after the death of an individual whom the tribe, through resolution or tribal code, has determined is eligible to receive the tribal per capita payment, but distribution takes place before the decedent's trust estate is probated.

V – Judgment Per Capita Payment on Deposit in a Voluntary Hold Status.

- **Used only in the following special circumstance:** A minor's J account will be converted to a V account upon the minor's request as the minor reaches the age of majority and chooses to leave the judgment funds in his or her account in a voluntary hold status.
- While voluntary holds are not normally denoted in the account number, the circumstance described above requires a separate account with the V Class Code in order to ensure that the judgment funds are not commingled with other types of trust funds that may be in a minor's IIM account.
- An individual cannot simultaneously have a "J" and a "V" account.

C. Six (6) -, Seven (7) - or Eight (8) - Digit Number

Uniquely identifies the individual, assigned as follows:

1. Unique number, or
2. An enrollment number.

If you have any questions regarding this directive, please contact:

BIA: Larry Scrivner, Office of Trust Responsibility at (202) 208-5831;
OTFM: Janet Nicholson, Division of Quality Assurance at (505) 816-1003.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

APR 8 2002

To: Regional Directors
Agency Superintendents
Field Representatives
Office of Trust Responsibilities
Office of Tribal Services

From: Deputy Commissioner of Indian Affairs

Subject: Procedures for Assigning Individual Indian Money Account Numbers and ID Numbers.

EFFECTIVE DATE: APRIL 15, 2002

This memorandum establishes a standard procedure and format for the Office of Trust Funds Management (OTFM) Individual Indian Money (IIM) account number and Bureau of Indian Affairs (BIA) identification (ID) number, and the requirements for assigning the numbers. Both agencies are issuing this memorandum simultaneously. This memorandum supersedes any previous directive regarding this practice.¹ You are directed to instruct your contracting offices to amend any non-tribal contracts through which these functions are performed on behalf of the BIA or the OTFM. You are further directed to encourage tribal contractors carrying out financial trust services programs in your jurisdiction to adhere to this policy to promote consistent practices to enhance trust reform.

All new accounts must be in compliance with this policy. This will ensure that the unique BIA ID numbers and the associated IIM account numbers will continue to retain their uniqueness, not disrupt the normal use of those numbers, and BIA and OTFM staff will all be using a common method of assigning account/ID numbers until such time as a new common system is developed. We do not intend at this time to commence a global clean up effort to bring accounts established prior to April 15, 2002 in to compliance with this policy. However, if in the course of performing daily operational duties an existing account is discovered that does not comply with this policy, the account must be brought into compliance with this policy. This policy, once effective, shall remain in effect until revoked or superseded by future directives.

¹ Specifically, the Memoranda dated December 4, 2000, and March 2, 1989 are revoked, to the extent they are inconsistent with this directive. (Copies attached.)

Below are the guidelines for assigning numbers:

1. Categories: There are four categories of accounts as illustrated in the following table.

Category No.	Category Description	Resulting numbers for OTFM and BIA:		Agency Responsible for assigning the number:
I	Individuals with a direct interest in trust or restricted land.	IIM Account No.	BIA ID No.	BIA
II	Individuals with a life estate, dower or curtsy, or homestead interest in trust or restricted land.	IIM Account No.	BIA ID No.	
III	Individuals with proceeds resulting from other agency income (i.e. Veterans Affairs or Social Security).	IIM Account No.		
IV	Individuals with proceeds resulting from tribal, judgment per capita distributions	IIM Account No.		OTFM

2. IIM Account / ID Number Size:

A. Background:

- i. OTFM IIM Account Numbers: Account numbers currently assigned to IIM Account holders and maintained within the Trust Fund Accounting System (TFAS) by the OTFM consist of ten (10) characters. However, the TFAS is capable of expanding to twelve (12) - character account numbers.
- ii. BIA ID Numbers: ID numbers currently assigned by the BIA consist of ten (10) characters. However, the Land Title and Records Office (LTRO), Southwest Region, has identified a need to increase the size of the ID number due to the Navajo Region having reached ID numbers in the 900,000's. It is anticipated that eleven (11) - character ID numbers will soon be needed for the Navajo Region.

The Trust Asset and Accounting Management System (TAAMS) is the system of record for current title information at four LTROs. TAAMS title system is designed to accommodate twelve (12) - character ID numbers.

B. Policy:

The use of the existing ten (10) - character numbers will remain the standard for the assignment of IIM account numbers and ID numbers. The BIA and the OTFM currently have the flexibility to increase the size of the IIM account numbers and the ID numbers. Therefore, as the need arises, both BIA and OTFM offices may expand IIM account numbers and ID numbers to eleven (11) or twelve (12) characters.

At this time there will not be an automatic conversion from ten (10) – character numbers to twelve (12) – character numbers.

3. Account/ID Number Format:

Illustration of the number format: 123 A 12345678	
123	= 3-digit numeric code – <i>Tribe Code or Land Area Code or Regional Corporation Codes;</i>
A	= 1-digit Alpha character – <i>Class Code (also known as Alpha Code); and</i>
123456	= 6-digit number (current minimum size) – <i>unique sequential number or enrollment number</i>
	or
1234567 or 12345678	= 7- or 8-digit number, as needed, for expansion of IIM account number or ID number

A. Three (3)-Digit Numeric Code – Constitutes a Land Area Code or Regional Corporation Code or Tribe Code:

i. *Land Area Code* identifies the reservation on which the trust or restricted land is located or the location of the restricted land in which an *interest* is being established for a *non-Indian, including non-Indian life estate, dower or curtesy, or homestead owners.*

OR

ii. *Regional Corporation Code* identifies where:

- An Alaska Native is enrolled; or
- An Alaska Native individual granted a life estate, dower or curtesy, or homestead interest is enrolled; or
- A non-enrolled Alaska Native is affiliated (lineal descendent).

OR

iii. *Tribe Code* identifies the federally recognized tribe where:

- An individual Indian is enrolled; or
- An individual Indian granted a life estate, dower or curtesy, or homestead interest is enrolled; or
- A non-enrolled individual Indian is affiliated (lineal descendent).
 - In order to establish consistency within the BIA in the use and assignment of a non-enrolled individual Indian (lineal descendent), **Program Offices must assign the Tribe Code of the tribe for an individual non-enrolled Indian in the following priority:**

- The tribe to which the individual's father is or was a member;
- The tribe to which the individual's mother is or was a member;
- The tribe to which the individual's grandfather is or was a member;
- The tribe to which the individual's grandmother is or was a member;
- The tribe on whose reservation the individual owns one (or more) trust interest in trust income producing land;
- The tribe on whose reservation the individual owns the most interests in land;
- The tribe on whose reservation the individual owns an interest in land;
or
- The tribe with the closest proximity to the residence of the individual.

If none of the above criteria determines which Tribe Code should be assigned to the individual, then the Regional Office will select the Agency Office with the strongest contacts and assign the individual Indian that Agency Location Code and the individual's Tribe Code. The Agency Office with jurisdiction over the tribe indicated by the Tribe Code will be responsible for maintaining all personal records and for the preparation of the OHA-7.

In situations where a non-enrolled individual Indian owns interests in lands of different reservations under the jurisdiction of more than one Agency, each Agency shall process all records and transactions regarding the non-enrolled individual Indian's land ownership interests that are under the jurisdiction of that Agency, using the non-enrolled individual's Tribe Code assigned pursuant to criteria stated in this policy.

The use of "generic" Tribe Codes for non-enrolled individual Indians, e.g. "100N" or "500N", shall be discontinued and such "generic" Tribe Codes replaced with Tribe Codes determined using the criteria stated in this policy.

B. One (1) -Character, Alpha - Class Code (also known as the Alpha Code):

The Class Code identifies the account type established for the individual. It is determined as follows:

- i. Class Codes for IIM account/ID numbers for individuals with a direct interest in trust or restricted land are:

A – Original Allottee: An Indian allotted lands by Chapter 9 of Title 25, United States Code.

U – Unallotted Indian: An enrolled Indian other than an original allottee.

N – Non-Enrolled Indian: An Indian not enrolled in any Tribe (lineal descendent). If a non-enrolled Indian receives only a life estate, refer to Class Code B.

R – Unknown Remainderman to Life Estate, Dower or Curtesy, or Homestead Interests:

This is an account created where an interest for an *unknown* remainderman exists in a diminishable resource, such as minerals. The "R" will be used instead of the Class Code "U" to distinguish it from an enrolled Indian other than an original allottee. The "R" code is used *only* for unknown remaindermen.

X – Fee Interest Owner.

- ii. Class Code for IIM account/ID number for an individual with a life estate, dower or curtesy, or homestead interest is:

B – Life Estate, Dower or Curtesy, or Homestead Interests: These interests are generally associated with the exclusive right to receive income, to use land, or both. Individuals may have been deeded or devised one or more exclusive rights but can only have one "B" account. This Class Code must be used for both Indian & non-Indian individuals. Non-enrolled Indians who are assigned a Class Code of "B" shall be treated as Indian *only* for purposes of probating the individual's trust estate.

- iii. Class Code for IIM account numbers for individuals resulting from tribal or judgment per capita distributions are:

J – Judgment Per Capita Payment. Used only for:

Supervised accounts:

- Minors or emancipated minors; and
- Adults – Individuals determined to be *non compos mentis*, or adults in need of assistance or under legal disability;

and

Estates:

- *One-time only* after the death of an individual whom the Secretary has determined is eligible to receive judgment funds, but distribution takes place before the decedent's trust estate is probated.

P – Tribal Per Capita Payment. Used only for:

Supervised accounts:

- Minors or emancipated minors; and
- Adults – Individuals determined to be *non compos mentis*, or adults in need of assistance or under legal disability;

and

Estates:

- *One-time only* after the death of an individual whom the tribe, through resolution or tribal code, has determined is eligible to receive the tribal per capita payment, but distribution takes place before the decedent's trust estate is probated.

V – Judgment Per Capita Payment on Deposit in a Voluntary Hold Status.

- **Used only in the following special circumstance:** A minor's J account will be converted to a V account upon the minor's request as the minor reaches the age of majority and chooses to leave the judgment funds in his or her account in a voluntary hold status.
- While voluntary holds are not normally denoted in the account number, the circumstance described above requires a separate account with the V Class Code in order to ensure that the judgment funds are not commingled with other types of trust funds that may be in a minor's IIM account.
- An individual cannot simultaneously have a "J" and a "V" account.

C. Six (6) -, Seven (7) - or Eight (8) - Digit Number

Uniquely identifies the individual, assigned as follows:

- A. Unique number, or
- B. An enrollment number.

If you have any questions regarding this directive, please contact:

BIA: Larry Scrivner, Office of Trust Responsibility, at (202) 208-5831;
OTFM: Janet Nicholson, (505) 816-1003.

Attachments



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

DEC 4 2000

Memorandum

To: All Regional Directors
Attention: Regional Realty Officers and Managers
Land Titles and Records Offices

From: Deputy Commissioner of Indian Affairs

Subject: Policy for the Assignment of Identification Numbers for Non-Member (non-enrolled) Indians

It has come to the attention of this office that Bureau agency offices are encountering delays in the receipt of Identification Numbers (ID) for non-member Indians residing within their jurisdictional service area. Delays in assigning and processing ID numbers results in the submission of trust documents which are either inaccurate or insufficient to fully document all of the interests involved. This has been a particular concern with the timely processing of Data For Heirship Finding and Family History (OHA-7) information to the various Administrative Law Judges throughout the country.

The purpose of this memorandum is to affirm past policy concerning the issuance of ID numbers for non-member Indians. Thus, the assignment of ID numbers for non-member Indians as outlined in the Deputy to the Assistant Secretary - Indian Affairs' memorandum dated March 2, 1989, (copy attached) is affirmed. Each Line Officer is to ensure that their staff understands and implements the policy for the assignment of ID numbers for Indian individuals who are not members of a federally-recognized tribe.

Adherence to the procedure set forth in the above cited memorandum should ensure that ID numbers are timely provided to requesting offices by the appropriate office. Further, it is the duty and responsibility of each office to maintain complete and accurate records of and for Indian individuals under its record keeping jurisdiction.

Attachment



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

DEC 4 2000

Memorandum

To: All Regional Directors
Attention: Regional Realty Officers and Managers
Land Titles and Records Offices

From: Deputy Commissioner of Indian Affairs

Subject: Policy for Assignment of Identification Numbers for Non-Indians

As interests in trust and restricted lands are inherited, devised or otherwise conveyed in fee status to a non-Indian, the Bureau's Trust Asset and Accounting Management System (TAAMS) will require the entry of the non-Indian's name and the assignment of an Identification Number (ID). Consequently, it is critical that all Bureau offices that have responsibility for the assignment of ID numbers adhere to a common methodology for assignments of ID numbers for TAAMS and other trust record systems. This purpose of this memorandum is to establish the methodology.

As you are aware, an ID number is composed of ten (10) spaces with the first three spaces used for the Land Area Code (formerly referred to as a Reservation Code), the following space for a Class Code (alpha), and the remaining six (6) spaces for a number. Consequently, a properly assigned number would appear as 801X000010.

Effective January 1, 2001, all Bureau offices will assign an ID number for non-Indians as follows:

- ▶ The Land Area Code will be that of the Indian from whom the non-Indian acquired the interest.
- ▶ The Class Code assigned to all non-Indians will be an "X".
- ▶ The remaining six (6) digits will reflect a unique number to be assigned to all non-Indians under that Land Area Code. Thus, all non-Indians from the date specified above will be assigned the same six digit number.

Those non-Indians for whom an ID number was previously assigned will retain the assigned number. The assignment of a new ID number based on this procedure is not required.

Each Bureau office is responsible for maintaining complete and accurate records for the affected non-Indians under its record-keeping jurisdiction. Further, it is the responsibility of each Line Officer to ensure their staff understands the above information and implements this policy accordingly.

RECEIVED
MAR 2 1989

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20243

MAR 2 1989

IN REPLY REFER TO:
Real Estate Services
Land Titles & Records

Memorandum

To: All Area Directors
Deputy, Office of Tribal Services
Director, Office of Administration
Director, Office of Data Systems

From: ACTING Deputy to the Assistant Secretary - Indian Affairs
(Trust and Economic Development)

Subject: Statement of Policy Regarding the Assignment of Tribe Codes for Non-Member (Non-Enrolled) Indians for IRMS, LRIS, and other purposes; Responsibility for Records Maintenance.

It has come to our attention that the assignment of Tribe Codes as part of the Individual Identification Numbers for non-member (i.e. non-enrolled) Indians and the assignment of responsibility for maintaining records for such individual Indians, varies from area-to-area and agency-to-agency. Some area or agency offices assign Tribe Codes to non-member individual Indians and other offices assign generic Tribe Codes. Further, because of their non-member status, area and/or agency responsibility for maintaining records (e.g., for probate purposes) regarding the individual Indians either is not occurring or is occurring in a non-uniform manner. The primary purpose of the Tribe Code for Indian individuals who are type N (Non-Enrolled Indians) is to indicate which agency office is responsible for maintaining the Bureau's records regarding the individuals. However, because of the non-uniform assignment of Tribe Codes to non-member Indians, this purpose is not being realized.

In order to establish consistency within the Bureau of Indian Affairs regarding the assignment of Tribe Codes as part of the Individual Identification Numbers for non-member Indians and the assignment of record maintenance responsibilities, the following procedures are adopted and will be implemented by all area and agency offices for all data processing and other purposes:

1. Indian individuals who are not members of a federally-recognized tribe, but who otherwise satisfy the Bureau's requirements for receipt of Federal Indian benefits and services, shall be assigned Tribe Codes as follows:
 - a. The area office will assign the Tribe Code of the tribe with which an individual Indian has the strongest contacts as determined by one or more of the following (which are listed and weighted according to priority order):

- i. The tribe to which the individual's mother or father is or was a member;
 - ii. The tribe to which the individual's non-parental relatives are or were members;
 - iii. The tribe on whose reservation the individual owns (1) one or more interests in trust income producing land, or (2) the most interests in land, or (3) owns an interest in land; and,
 - iv. The tribe with the closest proximity to the residence of the Indian individual.
- b. Where an Indian individual has contacts with tribes in more than one area, the criteria listed in 1.a., above, will be utilized by the areas to first determine which area has the strongest contacts with the individual.

If none of the criteria listed in paragraph 1.a., above, determines which Tribe Code should be assigned to the Indian individual, then the Area office will select the agency office with the strongest contacts and assign the Indian individual the Agency Location Code as the individual's Tribe Code.

- 2. The responsibility for maintaining and processing all personal records, including all probate records, regarding the Indian individual shall be that of the agency office with jurisdiction over the tribe indicated by the Tribe Code.
- 3. In situations where a non-member Indian receives trust income from lands or owns interests in lands on different reservations under the jurisdiction of more than one agency, each agency shall process all records and transactions regarding the non-member's trust income or land ownership interests that are under the jurisdiction of that agency, using the non-member individual's Tribe Code assigned pursuant to the criteria stated in this statement of policy.
- 4. The use of "generic" Tribe Codes for non-member Indians, e.g. "100N" for all non-member Indians in the Portland Area, shall be discontinued and such "generic" Tribe Codes replaced with Tribe Codes determined using the criteria stated in this statement of policy.

It is the duty and responsibility of each agency office, under the direction and coordination of the area office, to maintain complete and accurate records of and for the Indian individuals under its record-keeping jurisdiction. Because of the impending conversion of programs and data from the existing Integrated Records Management System (IRMS) to the newly redesigned IRMS, planned to commence this Summer, all non-member Indian individuals (D Type N) must be assigned a Tribe Code consistent with this statement of policy no later than May 31, 1989.

If there are any questions or if further information is required, please contact the Office of Trust and Economic Development, Division of Real Estate Services, attention Quentin Michael Jones, Land Records Officer, NS 4520 MIE, or telephone FTS 343-3604 or 7787.



INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX F

**SUPERVISED INDIVIDUAL INDIAN (IIM) MONEY ACCOUNTS:
DISTRIBUTION PLAN (SEPTEMBER 26, 2001)**



IN REPLY REFER TO:
Human Services
MS-4660-MIB

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

OCT - 5 2001

Memorandum

To: All Regional Directors
Director, Office of Trust Funds Management

From: Deputy Commissioner of Indian Affairs

Sharon Blackwell

Subject: New Individual Indian Monies (IIM) Distribution Plan

Attached is the newly designed IIM Distribution Plan dated September 26, 2001. Until further notice, this IIM Distribution Plan is to be used by all the Bureau of Indian Affairs (BIA) staff charged with the responsibility of developing and working with supervised accounts. In an effort to accommodate distribution plans already in place and to allow for the receipt of this newly designed distribution plan at the agencies, all distribution plans created after December 1, 2001, including any modifications of existing distribution plans, must be submitted to the Office of Trust Funds Management on the attached form. Any distributions plans submitted after December 1, 2001 will be rejected if other versions of distributions plans are used.

The instructions for the distribution plan are included as page 4 of the plan and are self explanatory. We request that each region conduct training on the use of this form with every Superintendent and every social services staff member who have responsibilities for supervised accounts. Please note that until further notice no checks may be sent "care of" Superintendent or social services without the approval of the Deputy Commissioner of Indian Affairs. (Section E - payment instructions). The BIA staff are reminded that this form serves the purpose of documenting the authorization of the release of funds from an IIM account, as well as the use of those funds. It is imperative that the BIA staff keep accurate records.

If you would like assistance in preparing for and conducting training on the use of this form, please contact Larry Blair, Office of Tribal Services at (202) 208-2479.

Attachments

SUPERVISED INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS: DISTRIBUTION PLAN

Effective Date: September 26, 2001

NOTE: OTFM will only make payments based on a fully completed and approved BIA distribution plan.

ACCOUNT HOLDER NAME	
DATE OF BIRTH (mm/dd/yyyy)	____/____/____
BEGINNING AND EXPIRATION DATE	____/____ - ____/____

A - ACCOUNT HOLDER INFORMATION (Self-explanatory)

ACCOUNT HOLDER'S FULL NAME (First, Middle, Last Name, and Suffix) _____

DATE OF BIRTH (mm/dd/yyyy) _____

OTHER NAMES USED (For example: maiden, also known as (AKA), etc.) _____

SOCIAL SECURITY NUMBER _____

B - PERFORMANCE STATEMENT AND 1099 MAILING INFORMATION (See instructions on last page)

FULL NAME (First, Middle, Last Name, and Suffix) OF: _____

ACCOUNT HOLDER OR (if applicable), _____

CUSTODIAL PARENT OR GUARDIAN If Guardian, court order attached _____

MAILING ADDRESS (Street or P. O. Box, City, State, and Zip Code) _____

C - ACCOUNT INFORMATION (Self-explanatory)

IIM ACCOUNT NUMBER(S) (Identify account(s) covered by the plan) _____

TYPE OF ACCOUNT SUPERVISION (Please check appropriate box)

ADULT IN NEED OF ASSISTANCE EMANCIPATED MINOR

LEGAL DISABILITY MINOR

NON COMPOS MENTIS (Court Order Attached)

D - DISTRIBUTION PLAN INFORMATION (Self-explanatory)

TYPE OF DISTRIBUTION PLAN (Please check appropriate box and provide date)

INITIAL DISTRIBUTION PLAN _____

MODIFICATION OF PLAN (Provide date of initial plan to be modified: mm/dd/yyyy) _____

SUSPENSION OF PLAN (Provide date of initial plan to be suspended: mm/dd/yyyy) _____

CANCELLATION OF PLAN (Provide date of initial plan to be canceled: mm/dd/yyyy) _____

NOTE: BIA Officer-in-Charge has approved removing the restriction from the account.

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

The information requested on this form is required for the purpose of disbursing money by a Federal agency. All information provided above is protected under the Privacy Act at 5 U.S.C. 552 (b) which states that the IIM Account Information can be provided only to government employees whose duties require access. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number.

SUPERVISED INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS: DISTRIBUTION PLAN

Effective Date: September 26, 2001

E - PAYMENT INFORMATION (See instructions on last page - if there are more than two separate disbursements, copy and attach this page to the plan, and check the box.)

PURPOSE OF THE DISBURSEMENT (E.G., RENT, UTILITIES, CLOTHING, ETC.)

FREQUENCY (M=Monthly, Q=Quarterly, W=Weekly, BW=Bi-Weekly, A=Annual, O=One Time)

DATE PAYMENT DUE TO PAYEE (OTFM-Allow 5 days for check/2 days for Direct Deposit delivery)

PAYMENT AMOUNT (\$) AND IIM ACCOUNT NUMBER(S) (From which payment will be made)

NAME OF PAYEE (First, Middle, Last Name, Suffix, or Name of Business)

PAYMENT BY CHECK (Enter mailing address/Street or P.O. Box, City, State, and Zip Code)

PAYMENT BY DIRECT DEPOSIT/LEFT (Please complete a, through c, below)

a. NAME(S) ON THE BANK ACCOUNT (First, Middle, Last Name, Suffix, or Business Name)

b. BANK ROUTING NUMBER & PAYEE'S BANK ACCOUNT NUMBER

c. NAME OF BANK AND TELEPHONE NUMBER

E - PAYMENT INFORMATION (Continued - See instructions on last page)

PURPOSE OF THE DISBURSEMENT (E.G., RENT, UTILITIES, CLOTHING, ETC.)

FREQUENCY (M=Monthly, Q=Quarterly, W=Weekly, BW=Bi-Weekly, A=Annual, O=One Time)

DATE PAYMENT DUE TO PAYEE (OTFM-Allow 5 days for check/2 days for Direct Deposit delivery)

PAYMENT AMOUNT (\$) AND IIM ACCOUNT NUMBER(S) (From which payment will be made)

NAME OF PAYEE (First, Middle, Last Name, Suffix, or Name of Business)

PAYMENT BY CHECK (Enter mailing address/Street or P.O. Box, City, State, and Zip Code)

PAYMENT BY DIRECT DEPOSIT/LEFT (Please complete a, through c, below)

a. NAME(S) ON THE BANK ACCOUNT (First, Middle, Last Name, Suffix, or Business Name)

b. BANK ROUTING NUMBER & PAYEE'S BANK ACCOUNT NUMBER

c. NAME OF BANK AND TELEPHONE NUMBER

ACCOUNT HOLDER NAME	▶
DATE OF BIRTH (mm/dd/yyyy)	▶
BEGINNING AND EXPIRATION DATE	▶

STOP DATE (mm/dd/yyyy) _____

IIM ACCOUNT # _____

CHECKING ACCOUNT OR SAVINGS ACCOUNT

STOP DATE (mm/dd/yyyy) _____

IIM ACCOUNT # _____

CHECKING ACCOUNT OR SAVINGS ACCOUNT

NOTE: OTFM will only make payments based on a fully completed and approved BIA distribution plan.

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

The information requested on this form is required for the purpose of disbursing money by a Federal agency. All information provided above is protected under the Privacy Act at 5 U.S.C. 552 (b) which States that the IIM Account information can be provided only to government employees whose duties require access. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number.

SUPERVISED INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS: DISTRIBUTION PLAN

Effective Date: September 26, 2001

F - RECOMMENDING AND AUTHORIZING OFFICIAL SIGNATURES (See instructions on last page)

RECOMMENDING OFFICIAL	BIA OFFICER-IN-CHARGE
DATE SIGNED (mm/dd/yyyy) This is the recommendation date: ▶	DATE SIGNED (mm/dd/yyyy) ▶
SIGNATURE (Signature acknowledges that the recommended payments/withdrawals under the Distribution Plan are deemed to be in the best interest of the Account Holder).	SIGNATURE (Signature certifies that the payments/withdrawals under the Distribution Plan are deemed to be in the best interest of the Account Holder).
PRINT NAME AND TITLE ▶	PRINT NAME AND TITLE ▶
PHONE NUMBER ▶	PHONE NUMBER ▶

ACCOUNT HOLDER NAME	▶
DATE OF BIRTH (mm/dd/yyyy)	▶ / /
BEGINNING AND EXPIRATION DATE	▶ / / - / /

G - BIA INTERNAL USE ONLY - AFTER APPROVAL (See instructions on last page)

OTFM (Date sent to OTFM) ▶	INITIAL ▶	DATE ▶
CASE FILE (Date filed by BIA) ▶	INITIAL ▶	DATE ▶

PRIVACY ACT STATEMENT and PAPERWORK REDUCTION ACT NOTICE

The information requested on this form is required for the purpose of disbursing money by a Federal agency. All information provided above is protected under the Privacy Act at 5 U.S.C. 552 (b) which states that the IIM Account Information can be provided only to government employees whose duties require access. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number.

INSTRUCTIONS TO COMPLETE THE SUPERVISED IM-ACCOUNT DISTRIBUTION PLAN (Effective Date: September 26, 2001)

Top Right-Hand Corner of Plan:

(For BIA Reference - This information must be provided on each page of the Distribution Plan.)

Beginning date Enter Beginning Date after the BIA Officer-in-Charge has signed the initial distribution plan for a given year. The Beginning Date is the actual date that the BIA officer-in-charge signed the initial distribution plan.

Expiration date Enter the expiration date after the distribution plan is signed. The expiration date must not exceed one year from the beginning date of the initial distribution plan.

A - Account Holder Information (self-explanatory)

B - Performance Statement and 1099 Mailing Information

Full name of Identifier the person(s) who is to receive the statement of performance for the account and a copy of the 1099 form, which was sent to the Internal Revenue Service.

Check "Account Holder" if the account holder is:

- *an adult in need of assistance with no legal guardian.* Enter the account holder's name.
- *an emancipated minor.* Enter the account holder's name.

Attach a copy of the court order emancipating the minor or a copy of the account holder's marriage certificate.

- *legally disabled with no legal guardian.* Enter the account holder's name. Also, if the BIA serves as the Representative Payee for other federal dollars, enter the name of the BIA officer-in-charge.

Check "Custodial Parent" and enter the custodial parent's name if the account holder is a minor and resides with the parent named.

Check "Guardian" if the account holder is:

- *a minor who has had a legal guardian appointed.* Enter the name of the guardian and attach a copy of the court's guardianship order.
- *an adult in need of assistance who has a legal guardian over his or her property.* Enter the name of the guardian and attach a copy of the court's guardianship order.

Attach a copy of the court's guardianship order.

- *a ward of the court and no person or entity has been given guardianship over the account holder's property.* Enter the name of the court. If the court has named a person or entity (e.g., BIA) as having control over the account holder's property, enter the name of that person or entity. Attach a copy of the court order.

Non-compos mentis. Enter the name of the guardian and attach a copy of the court's guardianship order.

- *a ward of the court and no person or entity has been given guardianship over the account holder's property.* Enter the name of the court. If the court has named a person or entity (e.g., BIA) as having control over the account holder's property, enter the name of that person or entity. Attach a copy of the court order.

NOTE: If a person/entity has been appointed by a court to serve as a legal guardian without limitation, that person/entity will have control of the account holder's property. However, if a

person/entity is given guardianship over the account holder or is given control and custody of the account holder, the appointed person/entity does not have control over the property. Do not enter the name of the person with whom the child resides (e.g., foster parent, grand parent) if that person has not been appointed legal guardian by a court of competent jurisdiction.

Mailing address Enter the address of the person(s) or entity identified to receive the statement of performance and a copy of the 1099 form sent to the Internal Revenue Service.

C - Account Information (self-explanatory)

D - Distribution Plan Information (self-explanatory)

E - Payment Information

Purpose for the disbursement For each recommended disbursement, state the specific purpose for the disbursement (e.g., rent, clothing, utilities, etc.). The purpose may NOT be "one-time disbursements as needed." If the account holder resides with other persons, and is only responsible for part of the rent, utilities, telephone, etc., include that information in this line (e.g., 1/2 of electricity bill).

Frequency Enter the appropriate letter (e.g., M = every month, Q = every three months/quarter, etc.) to indicate how often you want OTFM to disburse the funds. Also, indicate the "Frequency Stop Date" that is the date the recurring payment will stop (i.e., if the payment is to be made for the next 6 months, and the payment begins on January 15th, the frequency stop date will be June 15th.) If no stop date is provided, it will default to the expiration date of the distribution plan.

Date payment is due to payee Enter the date that the payment is due to the payee. (E.g., if a utility payment is being made, enter Bill due date on the form.) This will allow OTFM to make a timely disbursement so that the payment can be received by the due date.

Payment amount (\$) and IM account number(s) Enter the payment amount (\$). If more than one IM account number was given in section "C-Account Information" above, enter the specific IM account number(s) from which OTFM will disburse funds for the payment.

Name of the payee Enter the full name of the individual or entity who will receive the disbursement. Note: No BIA employee, tribal contractor employee, BIA social services or tribal social services may be named payee for IM funds of an account holder.

Payment by check If payment is to be made by check, place an X in this box and enter the payee's mailing address. Note: No checks may be sent "care of" Superintendent or social services without the approval of the Deputy Commissioner of Indian Affairs.

Payment by direct deposit/EFT If payment is to be made by direct deposit/EFT, then check this box and indicate whether the

direct deposit/EFT will be made into the payee's checking account or savings account.

a. Name(s) on the bank account Enter the names of individuals who have access to the bank account.

b. Bank routing number & payee's bank account number (self-explanatory)

c. Name of bank and telephone number (self-explanatory)

F - Recommending and Authorizing Official Signatures

Recommending official The recommending official is the person who develops the plan and recommends its approval to the BIA officer in charge.

Date signed (self-explanatory)

Signature The Recommending Official must sign the distribution plan. The signature acknowledges that the recommended payments/withdrawals under the plan are deemed to be in the best interest of the account holder.

Print name and title (self-explanatory)

Phone number (self-explanatory)

BIA Officer-in-Charge The BIA Officer-in-charge is the person who has delegated authority from the Secretary to approve disbursements from a supervised IM account.

Date signed If the distribution plan being signed is the initial plan for any given year, then the date signed is also the beginning date of the plan which should be filled-in on the top right corner of each page of the plan. If the plan is a modification, suspension, or cancellation of an existing distribution plan for a given year, the date that the BIA Officer-in-Charge signed the plan does not effect the beginning date of the initial distribution plan. However, if an existing distribution plan is to be canceled, the date the distribution plan is signed becomes the expiration date of the plan.

Signature The BIA Officer-in-Charge must sign distribution plan before it becomes effective. The signature certifies that the payments/withdrawals under the plan are deemed by him or her to be in the best interest of the Account Holder.

Print name and title (self-explanatory)

Phone number (self-explanatory)

G - BIA Internal Use Only (After approval)

OTFM Enter the date that a copy of the plan and any attachments were sent to OTFM and initial and enter the date that this information was recorded on the plan.

Case file Enter the date the plan was filed in the case file and initial and date when the information was recorded in the plan.

ALL INFORMATION PROVIDED IS PROTECTED

INTERAGENCY PROCEDURES HANDBOOK

**BUREAU OF INDIAN AFFAIRS
AND
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

APPENDIX G

KENNERLY LETTER

APPENDIX G

NOTICE OF INTENT TO SUPERVISE YOUR INDIVIDUAL INDIAN MONEY (IIM) ACCOUNT

Dear [Name of Account Holder]:

This is to inform you that this Office has received a request to supervise your IIM account [account number] because of you have been found to be:

- A Minor
- An Emancipated minor
- An Adult in need of financial management assistance
- An Adult under a legal disability that makes you unable to manage your financial affairs
- An Adult non-compos mentis (of sound mind)

A distribution (spending) plan will be prepared in consultation with a guardian who will be appointed to act in your best interests and a copy of the plan will be sent to you. No funds may be withdrawn from your IIM account without consultation with social services and approval by the superintendent. Your case will be reviewed every six months to see if continued supervision of the account is needed and to ensure that the funds spent from your IIM account were used for your benefit.

Your account will be monitored closely by the Branch of Social Services, and disbursements from the account will be coordinated carefully with you and your guardian. Your IIM account will be restricted five (5) days from the mail notice date of this correspondence (i.e., posted mark by U.S. certified mail).

If you do not agree with the proposed supervision of your IIM account, you have the right to a fair hearing as provided in 25 CFR § 115.607 (see attachment for further explanation). Your request for a hearing must be in writing, and received by a Superintendent of (Name of Agency) within forty (40) days of the mail notice date. The Superintendent will conduct a fair hearing within ten (10) days of receipt of your request for a hearing. Attached for your information are the requirements for a fair hearing.

If you believe that you do need the Bureau of Indian Affairs help in managing your IIM account and do not want to request a hearing, you may sign the Waiver of Right to a Hearing and it to us. This will allow us to begin supervision without waiting for the time allowed for you to appeal our decision. You may use the enclosed stamped, addressed envelope to send to us either the Request for a Hearing or the Waiver of Right to a Hearing.

If you have any questions regarding this notice, you may call [name of contact] at [telephone number].

Sincerely,

Superintendent

Enclosures