



## **POLICY AND ADMINISTRATIVE PROCEDURES**

### **Manual of Policies and Procedures**

Title

## **INMATE TRUST FUND**

| Legal References<br>(includes but is not limited to)  | Related Policies/Procedures<br>(includes but is not limited to)                         | Other References<br>(includes but is not limited to)   |
|---|---|--|
| IC 4-10-10-1<br>IC 4-24-6-1 <i>et seq.</i><br>IC 11-8-2-5(a)(9)<br>IC 11-10-7-5<br>IC 11-10-8-6<br>IC 11-10-12-1(a)(1)<br>IC 11-10-12-2(a)(1) & (2)<br>IC 11-10-12-3<br>IC 11-10-15-1 | 00-01-102<br>02-01-101<br>02-01-103<br>02-01-104<br>02-01-106<br>02-01-108<br>02-02-102 | <b>ACA:</b><br><br>ACI: 4-4025, 4-4027, 4-4031, 4-4033, 4-4034, 4-4044, 4-4045, 4-4047<br>JTS: 1B-07, 1B-19, 1B-20, 1B-21, 5H-08<br>CO: 2-CO-1B-05, 2-CO-1B-14 |

### **I. PURPOSE:**

The purpose of this policy and administrative procedure is to present guidelines for the initiation, maintenance, use and review of the accounts established to hold in trust offender monies.

### **II. POLICY STATEMENT:**

The Department of Correction shall establish an Inmate Trust Fund account for all offenders confined in Department facilities and shall deposit all monies held in trust for offenders in a federally insured depository, in accordance with applicable statutes.

Any personal funds that an offender brings into the Department or that are deposited with the Department for the use and benefit of the offender shall be held in trust in the offender's Inmate Trust Fund account. The Department may restrict the sources of funds sent to offenders and the disbursements that offenders may make.

The Department shall maintain individual records for each offender's account in order to ensure exact accounting of all receipts and disbursements for funds held in trust. A system of review shall be used to ensure compliance with all laws, rules, accepted accounting procedures and proper accounting of all funds received or disbursed.

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When an offender is released from the Department, the offender shall be given all funds that are available in the offender's Inmate Trust Fund account. Any funds not available at the time of the offender's release shall be sent to the offender as soon as possible.

In addition to the funds generally available to the offender, the offender shall be given all funds in the offender's Re-Entry Administrative Account at the time of release from the Department. These funds shall be included with the offender's Inmate Trust Fund at the time of the offender's release.

### III. DEFINITIONS

For the purposes of these administrative procedures, the following definitions apply:

- A. **BUSINESS ADMINISTRATOR:** The administrator at a facility responsible for the coordination and control of fiscal recording and processing.
- B. **COURT ORDERED JUDGMENT:** A court order demanding payment of funds from an offender's Inmate Trust Fund account.
- C. **HOLD ON ACCOUNT:** A restriction on an offender's Trust Fund account prohibiting the withdrawal of funds, except for the withdrawal of funds in accordance with these administrative procedures.
- D. **IMMEDIATE FAMILY MEMBER:** The immediate family of an offender is his/her father, mother, siblings, spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a "step," "half" or adoptive relationship and those persons with the same relationship to the offender's spouse.
- E. **INDIGENT OFFENDER:** An offender who has a Trust Fund account balance of less than fifteen dollars (\$ 15.00) (not including any monies in the offender's Re-Entry Administrative Account) on the day of request and has not had a total of more than fifteen dollars (\$ 15.00) credited to the Trust Fund account (not including the offender's Re-Entry Administrative Account) in the preceding thirty (30) days.
- F. **INMATE TRUST FUND:** The fund established by IC 4-24-6-1 containing money held for an offender while incarcerated in a Department facility or a contract facility housing offenders committed to the Department.

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G. **MEDICAL CO-PAYMENT:** The costs assumed by an offender for the provision of Health Care related services or goods while incarcerated in a Department or contract facility.

H. **RE-ENTRY ADMINISTRATIVE ACCOUNT:** A special savings-type account in the offender's Inmate Trust Fund account comprised of a percentage of monies earned by the offender through a work assignment or employment which will be maintained to provide funds to the offender upon his/her release from the Department.

#### **IV. INITIATION OF THE OFFENDER ACCOUNT AT AN INTAKE UNIT:**

All monies that accompany an offender to an intake unit shall be receipted. State Form 9415, RECEIPT TRUST FUND (manual version) (ATTACHMENT I), or State Form 9414, RECEIPT TRUST FUND (automated version) (ATTACHMENT II), shall be used for this purpose. These monies shall be placed in the Inmate Trust Fund account under the offender's name. During the initial orientation at the intake unit, all adult offenders shall be presented with State Form 3494, LIMITED POWER OF ATTORNEY, (ATTACHMENT III) and be requested to sign this form. The purpose and necessity of this form shall be explained to the offender. If the offender refuses to sign this form, monies - to include state pay and money sent in to the offender - shall be posted to the offender's Inmate Trust Fund account; however, no money shall be disbursed from the offender's Inmate Trust Fund account except for court ordered payments, restitution and the purchase of hygiene and over-the-counter medications from the commissary. It shall not be necessary for the offender to sign any other "Limited Power of Attorney" forms during the period of confinement in a departmental facility. Juveniles are not required to sign State Form 3494 due to their legal status; however, during orientation juveniles shall be advised of the Inmate Trust Fund and its operation.

When the offender's Inmate Trust Fund account is established, the facility shall ensure that the offender is advised of the Re-Entry Administrative Account and that any monies set aside in this account will be a part of the Inmate Trust Fund; however, the offender will not be allowed to access these monies until the offender is released from the Department. Only funds obtained by the offender through a work assignment shall be placed in the Re-Entry Administrative Account.

When an offender is transferred from an intake unit to another facility or from one facility to another, the receiving facility shall establish an Inmate Trust Fund account for the offender as soon as possible. Any funds received with the offender shall be deposited in the offender's Inmate Trust Fund account in accordance with these administrative procedures.

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Operational procedures shall specify the manner in which the above actions are taken.

### **V. RE-ENTRY ADMINISTRATIVE ACCOUNT:**

In order to assist adult offenders at the time of their release, the Department shall establish a Re-Entry Administrative Account for all adult offenders. However, offenders whose Earliest Possible Release Date (EPRD) is after the date when the offender would be 80 years of age are not eligible for a Re-Entry Administrative Account, unless:

- The offender's appeals have not been exhausted;
- The Department determines that the offender may have a Re-Entry Administrative Account; and,
- The offender agrees to have a Re-Entry Administrative Account.

If a Re-Entry Administrative Account is established for these offenders, the offender shall be required to adhere to all Department procedures regarding the operation and use of the Re-Entry Administrative Account.

When an offender is provided a work assignment (including a PEN Products or joint venture work assignment or obtains employment in a Department Community Re-Entry Center), the offender shall be advised that 15% of the offender's earnings, after all required deductions have been made, from the work assignment will be placed in the offender's Re-Entry Administrative Account. Only funds derived from a work assignment (i.e., state pay for a facility work assignment, PEN Products pay or pay from a private employer whether through joint venture work program or a Work Release employer) shall be placed in the Re-Entry Administrative Account. (NOTE: Monetary gifts, donations, checks or money orders from other sources, such as retirement checks, tax refund checks, etc., placed in the offender's Inmate Trust Fund or monies the offender may have in other private accounts are not subject to the 15% deduction for the Re-Entry Administrative Account.) This account shall be mandatory for all offenders who have a work assignment and receive pay for that assignment, except as indicated above.

The offender shall be advised that 15% of his/her earnings from a work assignment shall be deducted from the offender's earnings after all other statutorily required deductions, including court fees and restitution, are taken. This 15% of the offender's earnings shall be placed in the Re-Entry Administrative Account. (NOTE: The 15% deduction shall not be taken from any earnings that are credited to the offender's Inmate Trust Fund account after the offender has been released from the Department.)

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The offender's earnings shall be deposited in the offender's Inmate Trust Fund and subsequently distributed in the following order:

**A. OFFENDERS WITH FACILITY WORK ASSIGNMENTS AND PEN PRODUCTS WORK ASSIGNMENTS:**

1. Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid by other means.
2. Restitution either by a court or by a Disciplinary Hearing.
3. Medical Co-payments.
4. Fifteen percent (15%), if available, placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings after the above deductions are made and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account.)
5. Any amount remaining shall be placed in the offender's Inmate Trust Fund for the offender's personal use.

**B. OFFENDERS WITH JOINT VENTURE/PRIVATE EMPLOYER WORK ASSIGNMENTS WITHIN A FACILITY:**

1. Not less than twenty percent (20%) of the offender's gross earnings to be given to the offender or retained by the Department. If retained by the Department, the amount, with accrued interest if interest on the amount is earned, must be returned to the offender not later than at the time of the offender's release on parole or discharge.
2. State and federal income taxes and Social Security deductions.
3. The expenses of room and board, as fixed by the Department and the Budget Agency, in facilities operated by the Department, or, if the offender is housed in a facility not operated by the Department, the amount paid by the Department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the Department and the appropriate authority. The fee shall be forty percent (40%) of the offender's weekly earning less the deductions listed in Procedures B. 1. and B. 2.

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NOTE: Subsistence fees and Violent Crime Victim's Compensation fees shall not be collected from monetary gifts or monies transferred from other facilities; however, subsistence fees and Violent Crime Victim's Compensation fees are to be deducted from Workers' Compensation benefits.

4. The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support. If the offender's dependents are receiving welfare assistance, the appropriate local office of the division of family resources or welfare department in another state shall be notified of these disbursements.
5. Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.
6. Fifteen percent (15%) shall be placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings after the above deductions are made and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account.)
7. Any remaining amount shall be given to the offender or retained by the Department in accord with subsection B. 1.

### **C. OFFENDERS WORKING FOR PRIVATE EMPLOYERS IN A WORK RELEASE PROGRAM:**

1. State and federal income taxes and social security deductions not otherwise withheld shall be calculated, but not deducted from the earnings, for the purpose of determining further required deductions.
2. The cost of membership in an employee organization required by the offender's employment in a Work Release program.
3. Ten percent (10%) of the offender's gross earnings, to be deposited in the Violent Crime Victim's Compensation Fund.
4. Not less than fifteen (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, must be returned with accrued interest to the offender not later than at the time of release on parole or discharge. The payment of the fifteen percent (15%) will occur

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after ten (10) working days from the date of deposit of the offender's check to allow clearance of the check by the bank.

6. The expense of room and board (subsistence fees), as fixed by the Department and the State Budget Agency, in facilities operated by the Department, or, if the offender is housed in a facility not operated by the Department, the amount paid by the Department to the operator of the facility or other appropriate authority for room and board. The fee shall be forty percent (40%) of the offender's weekly earning less the deductions listed in Procedures C. 1. and C. 2.

NOTE: Subsistence fees and Violent Crime Victim's Compensation fees shall not be collected from monetary gifts or monies transferred from other facilities; however, subsistence fees and Violent Crime Victim's Compensation fees are to be deducted from Workers' Compensation benefits.

7. Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid by other means.
8. Restitution ordered by a court or a Disciplinary Hearing.
9. Fifteen percent (15%) shall be placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account..)
10. An amount approved by the Facility Head to Pay for the support of the offender's dependents when directed by the offender or ordered by the court.
11. Pay to the victims or others for any unpaid obligations of the offender with the written consent of the offender and the approval of the Facility Head. If the offender's dependents are receiving welfare assistance, the appropriate welfare department shall be notified of these disbursements
12. Any remaining amount shall be given to the offender or retained by the Department in accordance with Procedure C. 4.

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The offender shall not be given access to the funds in his/her Re-Entry Administrative Account until the offender is released from the Department, either to Parole or Probation, to a Community Transition Program (CTP), by court order releasing the offender from the custody of the Department through a modification of the offender's sentence or by discharge. The funds in the Re-Entry Administrative Account shall be returned to the offender at the time of his/her release along with any other funds due the offender from the Inmate Trust Fund account.

In order to assist the offender in planning for his/her release and re-entry into the community, during each Re-Entry Accountability Plan (RAP) review, staff shall review any Financial Responsibility Plan (FRP) that has been developed for the offender. Staff shall indicate on the FRP the total amount of funds currently in the offender's Inmate Trust Fund account, the amount of funds available to the offender in the offender's Inmate Trust Fund and the amount of funds in the offender's Re-Entry Administrative Account. The offender's FRP shall be available for review on OCMS.

### **VI. DETERMINING INDIGENT STATUS OF OFFENDER:**

When an offender submits a request (e.g., for legal copying, legal mail for an indigent hygiene kit, etc.) and indicates that he/she is indigent, designated staff shall review the offender's Inmate Trust Fund account to determine whether the offender meets the criteria for being considered indigent. In order to be indigent, an offender must have a balance in his/her Inmate Trust Fund account of less than \$ 15.00 on the date of the request AND must not have had more than \$ 15.00 credited to his/her Inmate trust fund account within the last 30 days. When making this determination, funds in the offender's Re-Entry Administrative Account or funds placed in that account during the last 30 days shall not be considered. Only funds in the offender's regular Inmate Trust Fund account to which the offender may have access shall be considered.

An offender who does not meet the criteria for indigent status, but who does not have sufficient funds in his/her Inmate Trust Fund account shall be treated as an indigent offender for purposes of providing legal copies, legal mail and personal hygiene supplies, in accordance with the administrative procedures for Policy 00-01-102, "Offender Access to the Courts," and Policy 02-01-104, "Offender Clothing, Grooming and Personal Hygiene." A "hold" may be placed on the offender's account requiring the offender to pay for any copying costs or postage for legal mail that was provided to the offender when the offender had insufficient funds to cover these costs. Under no circumstances shall funds be withdrawn from the offender's Re-Entry Administrative Account to pay for these items or to reimburse the facility for the cost of copying or postage.



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Whenever funds are taken from an offender's account to pay court filing fees, restitution, etc., the facility shall attempt to allow the offender to retain at least \$ 5.00 in the Inmate Trust Fund account in order to purchase personal hygiene items and over-the-counter medications.

### **VII. MONIES IN PHYSICAL POSSESSION OF OFFENDER:**

After monies are received from an offender at an intake unit or other facility, all monies in the physical possession of an offender shall be considered prohibited property and shall be confiscated. Any monies confiscated shall not be placed in the offender's Inmate Trust Fund Account. Instead, the offender may be charged with a disciplinary violation and the money deposited into the facility's Inmate Recreation Fund Account.

Community Re-Entry Centers and Level One facilities that allow offenders to possess money in accordance with the facility's operational procedures shall be exempt from this administrative procedure. However, if an offender is found to be in possession of more money that authorized by the facility's operational procedures, the excess monies may be confiscated and a disciplinary violation prepared if it appears that the offender has obtained these monies in violation of the facility's rules and operational procedures.

### **VIII. INTEREST BEARING ACCOUNTS AND CHECKING ACCOUNTS:**

Offenders committed or ordered to the Department who possess an interest-bearing account or checking account at the time of intake may keep such accounts and shall be entitled to all interest. The check book, saving passbook, certificate of deposit book, customer copy of money orders or cashier's checks or other instrument of transfer shall be prohibited property and may be stored by the facility or sent to a friend or relative of the offender at the offender's request. Such items may be obtained for use only upon approval of the Facility Head. Approval for such requests shall be based on the security needs of the facility.

Offenders may not open accounts other than the Inmate Trust Fund Account without approval of the Facility Head. Approval for such requests shall be based on:

- A. Security and safety needs of the facility;
- B. The purpose for opening the account;
- C. The amount of money involved; and,
- D. The rehabilitative value of the account to the offender.

The opening of an account with a bank shall be subject to the bank's requirements and applicable laws for opening a bank account. With the exception of offenders

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assigned to a Community Re-Entry Center, an offender shall not be released to go to a bank to open an account. The Department or facility shall not be responsible for a bank refusing to open an account due to the offender not being permitted to go to the bank to do so.

Possession of an interest bearing account or checking account shall not be considered an offender business activity as determined by Policy 02-01-116, "Offender Business Activities."

In no instance shall two (2) or more offenders open a joint account. With the approval of the Facility Head or designee, an offender may request that an immediate family member or a friend open the bank account on his/her behalf. Under no circumstances shall a staff member or volunteer in the Department be a co-signatory on an account with an offender. This procedure shall apply to all offenders under the care, custody and control of the Department.

Operational procedures shall specify: (1) the manner in which an offender may open such accounts; (2) the manner in which access is obtained to these accounts; and, (3) the notification and accounting procedures to be followed for identifying interest entries and all other deposits and withdrawals.

### **IX. FINANCIAL TRANSACTIONS BETWEEN STAFF/VOLUNTEERS AND OFFENDERS:**

Financial transactions between offenders shall not be permitted without the prior written approval of the Facility Head(s). Offenders found to be attempting or completing financial transactions, including the sending of monies from one offender to another or the sending of monies from the family/friends of one offender to another, shall be subject to disciplinary action in accordance with the administrative procedures for Policy 02-04-101, "The Disciplinary Code for Department of Correction Offenders." Any such monies confiscated by a facility shall be returned to the sender, if the sender is not an offender and the name and address of the sender is available. The monies shall be deposited in the Inmate Recreation Fund if the sender is an offender or the sender's name and address cannot be determined.

Financial transactions between staff or volunteers and offenders, other than those transactions authorized in these or other administrative procedures, shall be strictly prohibited without the prior written approval of the Facility Head of the facility housing the offender and, if the facility where the staff person is employed or the volunteer provides services is different, the Facility Head of that facility. In making a decision regarding such transactions between staff or volunteers and offenders, the Facility Head(s) shall review the reason for such transaction and the potential impact on the safety, security and integrity of the facility. If the

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financial transaction is approved, the Facility Head shall provide a written approval to the staff person or volunteer and the offender, as well as placing a copy of the approval in the offender's facility packet.

### **X. SOURCES OF FUNDS:**

Monies received for an offender may come from the following sources:

- A. The offender, upon his/her initial arrival at a Department intake unit;
- B. Gift/donation from immediate family or friends on the offender's Visitors' List;
- C. State pay or pay from an approved work program/assignment (e.g. PEN Products, joint ventures, Community Re-Entry employer, etc.);
- D. Facility approved program participation (e.g. arts, crafts, etc.);
- E. Another facility upon the offender's inter-facility transfer; or,
- F. Other sources, such as pension checks, government checks, legal settlements, inheritances, etc., as approved by the Facility Head.

Offender solicitation of funds shall be in accordance with the administrative procedures for Policy 02-01-103, "Offender Correspondence."

The Facility Head of a juvenile facility shall determine whether money, including cash, may be left by visitors or shall be sent through the mail.

Money received at an adult facility from a source outside the Department shall be in the form of a postal money order, certified or cashier's check or government check. Additionally, money may be placed in the offender's Inmate Trust Fund account through electronic means, such as a direct deposit from an employer, or through other approved electronic transfers of funds, such as through a contractual clearinghouse. Any funds received by way of a non-governmental check or money order that are approved by a facility shall be deposited and placed in a hold status for up to ten (10) working days to ensure the validity of the instrument. Cash may be accepted in the following circumstances:

- A Department Intake Unit may accept cash upon an offender's arrival; and,
- Community Re-Entry Center Facility Heads may authorize the acceptance of cash from an offender's employer.

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All money, direct deposits, electronic transfers, checks and money orders accepted by Department facilities shall be in United States currency. Foreign currency or checks/money orders made payable in foreign currency shall not be accepted. Any foreign currency or checks/money orders payable in foreign currency are prohibited property and shall be returned to the sender. If the offender brings foreign currency into the facility, the offender shall be advised that it is prohibited property and that the foreign currency shall be disposed of in accordance with the administrative procedures for Policy 02-01-101, "Offender Personal Property."

Operational procedures shall specify the manner in which monies may be obtained from family and friends in accordance with these administrative procedures.

### **XI. TRUST FUND DEPOSITORIES:**

All money received for an offender shall be deposited into a facility operated checking account. This checking account shall be named the "Inmate Trust Fund Account for the (facility name)." The depository shall be either a member of the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC), or their successors. These funds also may be invested in Certificates of Deposit (CD's), savings accounts under FDIC or FSLIC and United States government securities as indicated in Procedure XVI, "Investment of Excess Inmate Trust Funds."

### **XII. RECEIPT OF MONIES FOR THE INMATE TRUST FUND:**

All monies received for an offender shall be receipted in triplicate. The only exception to this requirement is money received from within the Department such as state pay or Inmate Trust Fund checks from other facilities. State Form 9415, RECEIPT TRUST FUND, or State Form 9414, RECEIPT TRUST FUND, shall be used for this purpose. These receipts shall be numbered and issued sequentially. If a facility receives funds in more than one location, a separate receipt book shall be used at each location. The Facility Head or designee shall be accountable for funds deposited into the Inmate Trust Fund account. The receipt shall be distributed as follows:

- A. The white copy shall be forwarded to the Business Office, along with the money to be deposited, to post the money into the offender's Trust Fund account;
- B. The canary (yellow) copy shall be given to the visitor, when visitors are permitted to leave money, or to the offender, if the money is received

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through the mail or submitted to the facility by the offender (e.g., an offender in a Community Re-Entry Center turning in a paycheck); and,

- C. The pink copy shall remain in the receipt book or in a file in the receiving area if individual receipts are used.

The white and pink copies shall be maintained in accordance with all appropriate record retention schedules.

### **XIII. ACCOUNTING OF FUNDS:**

Each Facility Head or designee shall be accountable for any money held in trust for an offender lost as a result of official misconduct. Staff involved with the accounting of money in the Inmate Trust Fund account shall adhere to the highest accounting standards and shall abide by all accounting rules of the State of Indiana.

The facility shall maintain a complete record of all receipts to and disbursements from the Inmate Trust Fund account. The Inmate Trust Fund Program portion of the Offender Information System (OIS) shall be used to maintain the individual offender accounts within the Inmate Trust Fund account.

In addition to the individual accounts, the facility shall maintain a Control Section. All receipts to and disbursements from the Trust Fund account shall be entered in total in the Control Section. Receipts to the account shall be posted to the ledger on the date that the funds are received. Disbursements shall be posted to this ledger on the date the withdrawal of the funds is processed.

The employee responsible for posting receipts and disbursements of offender funds shall not receive money from visitors or through the mail nor issue receipts for money received. Additionally, the employee responsible for the posting of receipts shall not be permitted to execute a withdrawal from the Trust Fund account.

Each individual receipt and disbursement shall be entered on the proper account page of the appropriate offender in the OIS Trust Fund Program.

A trial balance shall be taken at the end of the business day. The daily ending balance of the sum of the individual offender accounts should equal the ending daily balance in the Control Section. If these amounts are not equal, an error has been made since the last trial balance. All entries since the last trial balance are to be examined until the error is identified and corrected.

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At the end of each month, the account bank statements shall be reconciled with the Control Section as well as reconciled with the computer trial balance. Any bank service charges shall be paid with a check from the facility's operating account. The bank statement showing a deduction for the service charges may be used as an invoice to obtain reimbursement for these expenditures from the State Auditor.

#### **XIV. REQUEST FOR WITHDRAWAL OF FUNDS:**

Each offender shall be required to complete a written request in order to withdraw money from his/her Trust Fund account. State Form 35720, REQUEST FOR REMITTANCE, or similarly approved form (ATTACHMENT IV) shall be used for this purpose. Every effort shall be made to provide the funds authorized by the offender within ten (10) days after receipt by staff of the approved written request for withdrawal. This maximum time limitation is not intended to delay the weekly draw process which is usually accomplished in a shorter time frame.

Adult offenders who refuse to sign the "Limited Power of Attorney" form during the intake process or who rescind the "Limited Power of Attorney" form shall not be permitted to request withdrawals from the Inmate Trust Fund account. The facility shall continue to withdraw funds for mandated reasons, such as court ordered judgments, court filing fees or restitution. However, the offender shall not be permitted to purchase items from the commissary other than personal hygiene and over-the-counter medications, purchase mail order items or send money to family or friends, etc. The offender's funds shall remain in the Inmate Trust Fund account until the offender's release at which time these funds shall be provided to the offender in accordance with these administrative procedures.

The following are allowable purposes for withdrawal of funds from the Inmate Trust Fund account:

##### **A. Payment to an Offender upon Release:**

At the time an offender is released from the Department, the offender's available balance from the Trust Fund account may be given to the offender in the form of a check or an approved debit card or any other form as approved by the Department. The facility shall ensure that only those funds which have been posted to the offender's account and have cleared the bank are given to the offender. Staff shall ensure that any monies which have been deposited, but have not cleared the originator's account, shall not be given to the offender until the monies have cleared and been credited to the Trust Fund account. Staff shall not anticipate state pay nor credit it to the offender before the actual warrant has been received from the Auditor's Office and credited to the offender's account.

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The Facility Head or designee shall ensure that any outstanding amounts, such as commissary purchases, release advances and orders for restitution are deducted from the account prior to giving funds to the offender.

Additionally, those offenders who have a Re-Entry Administrative Account shall have all of the available funds in this account provided to the offender upon the offender's release. These monies shall be provided to the offender in the same manner as the balance in the offender's Inmate Trust Fund account and may be included in the same check or on the same debit card as the offender's other funds.

Any funds held after the offender's release shall be sent to the offender at his/her last known address within sixty (60) days of release.

**B. Transfer of Offender:**

When an offender is transferred from one Department facility to another (including contract facilities), the offender's Trust Fund account shall be transferred to the receiving facility within ten (10) days from the date of the transfer. If the Trust Fund account cannot be transferred within the ten (10) days period, a letter shall be sent to the receiving facility and filed in the offender's facility packet indicating the reason. The sending facility shall ensure that all appropriate deductions are made from the Trust Fund account prior to transferring the Trust Fund account to the receiving facility, including deductions for the offender's Re-Entry Administrative Account. Any funds received by the sending facility after the offender has been transferred shall be sent to the receiving facility as soon as possible. The receiving facility shall ensure that the funds received are placed in the appropriate account (i.e., that funds in the offenders Re-Entry Administrative Account are placed in that account and not in the general Inmate Trust Fund account).

In order to ensure that an offender's funds are transferred within the established time limit, the Facility Head or designee shall ensure that the facility Business Administrator or the staff person designated to process transactions in the Inmate Trust Fund account, receives a list of all transferred offenders. This list shall include the name and number of the offender, the date the offender was transferred and the receiving facility. The Business Administrator or designated staff person shall review this list and indicate the date that the offender's Trust Fund account balance is transferred. This list shall be updated at least on a weekly basis. If the offender's funds are not transferred within the ten (10) days period, the Business Administrator or designated staff shall notify the Facility Head and explain why the funds have not been transferred. The Facility Head or

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designee shall then notify the receiving facility. Waiting for the offender's final state pay shall not be sufficient reason for delaying the transfer of any available funds to the receiving facility.

C. Commissary Purchases:

An offender may authorize money to be withdrawn from his/her Trust Fund account for the purchase of commissary items or other items that are purchased through an approved vendor or contractor. The offender shall be required to complete the approved commissary order form which shall serve as his/her authorization for funds to be withdrawn from his/her Inmate Trust Fund account.

D. Payment of Medical Co-Payment:

Offenders who request certain medical services or goods shall be assessed a co-payment. The co-payment assessed shall be determined in accordance with the procedures established for medical co-payment and the applicable promulgated rules. Offenders shall be assessed a \$ 5.00 co-payment for non-emergency visits to Health Care Services staff and a \$ 5.00 co-payment for all new prescriptions, unless otherwise provided in the co-payment procedures.

Charges assessed as a result of the medical co-payment program shall be deducted automatically from the offender's Trust Fund account. If an offender does not have sufficient funds to pay the co-payment, a hold shall be placed on the offender's account for a period of thirty (30) days. If the offender does not receive sufficient funds to pay the co-payment within that time period, the debt shall be expunged.

E. Other Approved Requests from the Offender:

An offender may request that funds be withdrawn from his/her Trust Fund account for other expenditures. Authorized expenditures shall include:

1. Money sent to immediate family members, as listed in the offender's packet, or for the support of a child;
2. Purchase of mail order items or items from vendors or contractors as approved by the facility; and,
3. Purchases related to the rehabilitative, spiritual or personal growth of the offender and approved by the facility.



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The facility shall develop operational procedures for submitting and approving these requests in accordance with these administrative procedures.

### **XV. WITHHOLDING OF FUNDS:**

The Chief Executive Officer for Finance and Performance or the Facility Head, or their designees, may place a hold on an offender's Trust Fund account to pay for certain obligations or for the offender's protection. When it is determined that a hold should be placed on an offender's Trust Fund account, certain withdrawals shall continue to be made. Such withdrawals shall include: purchases from the commissary for personal hygiene and over-the-counter medications, payments for legal copies or mailings and any other withdrawal authorized by the Facility Head.

In those cases where it is determined that an offender's Inmate Trust Fund account is to be "frozen" or a hold placed on it, staff shall notify the offender of such action in writing with a copy given to the facility's business office and a copy placed in the offender's facility packet. This notice shall include the date that the hold was placed on the account, the reason for the action and, if known, the anticipated date when the hold will be lifted. Once a determination is made to remove a hold on an offender's Inmate Trust Fund account, the offender shall be notified in writing that the hold has been removed and the date that the hold will be lifted.

A hold may be placed on the offender's Trust Fund account for the following purposes:

#### **A. Court Ordered Judgments:**

When the facility receives a court ordered judgment against an offender, the Facility Head or designee shall ensure that the order is authentic. Any question regarding the court order shall be referred to the Department's Legal Services Division. After the court order has been verified, the facility's Business Administrator or designated staff shall disburse the amount ordered from the offender's Trust Fund account. The offender shall be advised of the court order and the disbursement of the funds whenever funds are withdrawn from the account for this purpose. If the balance in the offender's Trust Fund account is less than the court ordered amount, the Business Administrator or designated staff shall "freeze" the offender's Trust Fund account. However, expenditures for purchase of legal copies/mail, personal hygiene items, over-the-counter medications or court fees shall continue to be authorized. This "freeze" shall remain in

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effect until the court order is satisfied. Upon satisfaction of the court order, the offender shall be advised the "freeze" has been removed.

**B. Court-Ordered Filing Fees:**

Offenders who file civil actions in either state or federal court and who are permitted to proceed *in forma pauperis* may be required to pay court filing fees. These filing fees may be paid in full or the court may order that the facility make an initial payment followed by monthly payments until the fees have been paid in full. The facilities shall abide by the administrative procedures for Policy 00-01-102, "Offender Access to the Courts."

The offender shall be notified in writing of his/her Trust Fund account status and the amount of any withdrawal for court-ordered filing fees on a periodic basis.

Additionally, the trust fund clerk shall note in the offender's facility packet, Section III, when an offender has a court order to pay filing fees and the balance due. Whenever an offender is transferred from one facility to another, staff at the receiving facility shall review Section III of the offender's packet. The receiving facility's Business Administrator or designated administrative staff shall be advised of any existing court order for fees.

**C. Restitution:**

An offender who acknowledges the responsibility for the loss, damage and/or destruction of state-owned property, or property belonging to another shall make restitution. The offender shall complete a REQUEST FOR REMITTANCE indicating the amount owed.

An offender who is found guilty through disciplinary action may be asked to complete a "Request for Remittance." It is not necessary to complete this form if it is indicated on State Form 39586, REPORT OF DISCIPLINARY HEARING, that restitution is a sanction.

When insufficient funds are available in an offender's Trust Fund account to make restitution, further expenditures from the fund shall be prohibited until the restitution is paid in full. Expenditures for legal copies/mail, personal hygiene items, over-the-counter medications and to satisfy court orders or court fees shall be allowed.

The offender shall be notified in writing of his/her Trust Fund account status and the amount of any withdrawal on a periodic basis.

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Designated staff shall issue a check from the Trust Fund account made payable to the facility when restitution is made to the State for the destruction of state-owned property. State Form 14313, REPORT OF COLLECTIONS AND RECEIPTS DUE THE STATE TREASURER, shall be completed and submitted. The designated staff shall ensure that all appropriate bookkeeping entries are made relative to the withdrawal of funds.

**D. Protection of the offender:**

If the Facility Head or other staff reasonably believes that an offender is a victim of extortion involving the offender's Trust Fund account, the facility shall conduct an investigation. During this investigation, with the approval of the Facility Head, the offender's account may be frozen and only withdrawals approved by the Facility Head or designee may be authorized. Upon completion of the investigation, the Facility Head or designee shall determine whether it is in the best interests of the offender and the facility to freeze the offender's Trust Fund account. The results of the investigation and the Facility Head's or designee's actions shall be documented in writing and made a part of the offender's facility packet.

If the Facility Head determines that it is appropriate to freeze the Trust Fund account of the offender allegedly attempting to extort another offender's funds, the facility may freeze the alleged extortionist's account until the completion of the investigation and any disciplinary action. The Facility Head shall determine the appropriate length of time the Trust Fund account shall be frozen. If the offender is not charged with a disciplinary violation or is found not guilty, the account shall be unfrozen immediately.

If a decision is made to freeze the account for the offender's protection, the Facility Head or designee shall advise the designated staff in the Business Office to place a hold on the offender's account. The offender shall be notified of the decision to freeze his/her Trust Fund account. The offender also shall be advised that disbursements shall only be permitted for the purchase of legal copies, personal hygiene items and over-the-counter medications and to satisfy court orders or court filing fees and other purchases approved by the Facility Head or designee. The offender may appeal this decision through the "Offender Grievance Process," Policy 00-02-301.

The Facility Head or designee shall notify the effected offender in writing of the decision to unfreeze his/her Trust Fund account.

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Operational procedures shall be developed by each facility to ensure that withdrawals of funds from an offender's Inmate Trust Fund are in accordance with these administrative procedures.

### **XVI. INVESTMENT OF EXCESS INMATE TRUST FUNDS:**

Each facility Business Office shall determine the average weekly draw against the Inmate Trust Fund account. Funds on deposit in the Inmate Trust Fund account in excess of daily withdrawal needs may be invested in Federally Insured Banks or Savings and Loan Institutions by the Business Administrator. These excess funds may be placed in savings accounts, certificates of deposits (CDs) or government securities. It shall be the Business Administrator's responsibility to obtain the highest rate of interest available from these financial institutions.

Certificates of deposits or securities shall be held in the Business Office in a secured area, preferably within a locked safe. Renewal notices shall be attached to the original certificate and secured.

Interest earned on these investments shall be deposited into the Inmate Recreation Fund on a monthly basis or as the interest becomes available to the facility. The INMATE TRUST FUND BALANCE SHEET shall record any interest accrued and transferred to the Inmate Recreation Fund.

### **XVII. FUND INHERITANCE:**

If a confined offender dies, the lawful heirs or devisees shall be entitled to any money credited to and held in trust for such offender including the Re-Entry Administrative Account, in accordance with the procedures established for Policy 02-01-101, "Offender Personal Property." If the heirs or devisees of the offender are unknown, the money in the trust account shall be maintained for a period of one (1) year from the date of death.

At the end of the one (1) year period, if no heir or devisee claims the money, the money shall be paid to the clerk of the circuit court of the county from which the offender was committed. A letter of explanation indicating the circumstances shall accompany the check. If the clerk of the circuit court refuses to accept this money, the facility shall treat the money as unclaimed property and submit it in accordance with the procedures for submitting unclaimed property to the Office of the Attorney General.

### **XVIII. OFFENDER ESCAPE:**

Should an offender escape from custody, any money credited to that offender's Trust Fund account shall be held in trust for a period of one (1) year from the date

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of escape. During this period, the account shall not be closed but classified as inactive.

At the end of the one (1) year period, if the escaped offender has not been apprehended and made a claim to such money, the money shall be remitted to the clerk of the circuit court of the county from which the offender was committed. A letter of explanation indicating the circumstances shall accompany the check. If the clerk of the circuit court refuses to accept this money, the facility shall treat the money as unclaimed property and submit it in accordance with the procedures for submitting unclaimed property to the Office of the Attorney General, as indicated in Procedure XX.

In no case shall money from an escaped offender's account be given to family or friends. If the offender is apprehended and returned to custody, the Trust Fund account, including any funds in the offender's Re-Entry Administrative Account, may be transferred to the offender's location. The transfer request shall be made by the offender in writing and notarized. The receiving facility shall review the request and if approved, shall forward the money to the offender's location within ten (10) days of receipt of the written request.

### **XIX. DISPOSITION OF UNCLAIMED FUNDS FOR RELEASED OFFENDERS:**

All available funds posted in the offender's Inmate Trust Fund account shall be given to the offender at the time of release. If money remains in an offender's Inmate Trust Fund account or the offender's Re-Entry Administrative Account after the offender's release, it shall be sent to the offender as indicated previously in Procedure XIII. A. This money shall be forwarded as soon as it becomes available; but, in no case shall the money be held longer than 60 days from the date of the offender's release or from the date that the money is available in the offender's Inmate Trust Fund account.

The facility shall request the assistance of the offender's Parole/Probation Officer in locating the offender in those cases where checks are returned. Following unsuccessful attempts to locate the offender, the money shall be held for one (1) year as of December 31 following the offender's release. After that date, the money shall be remitted to the Office of the Attorney General as unclaimed property, as indicated in Procedure XIX, "Outstanding Trust Fund Checks."

### **XX. OUTSTANDING TRUST FUND CHECKS:**

In accordance with IC 32-34-1-20(c)(7), Inmate Trust Fund checks which have been outstanding for a period of one (1) year or more shall be reported to the Office of the Attorney General, Unclaimed Property Section annually. The Business Administrator or designated staff shall review the Inmate Trust Fund

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annually to determine whether any outstanding checks exist. The facility shall record any checks that have been outstanding one (1) or more years as of June 30 of the previous year. The facility shall report any checks that have been outstanding one (1) year or more using the electronic forms available from the Internet at [www.IndianaUnclaimed.com](http://www.IndianaUnclaimed.com).

The facility shall write a check payable to the State of Indiana from the Inmate Trust Fund for the total amount of the facility's outstanding checks. The original report and check shall be sent to the Office of the Attorney General, Unclaimed Property Section. The facility shall retain a copy of these documents. This report shall contain the following information:

- A. Name of the payee and complete address;
- B. Check number;
- C. Date of issue of each check;
- D. Amount of each check issued; and,
- E. The total of all checks listed.

This report shall be submitted to the Office of the Attorney General, Unclaimed Property Section, by November 1. A copy of the information provided to the Office of the Attorney General shall be maintained by the facility and a copy sent to the Department's Controller.

Following the submission of the report and the check, the Business Administrator or designated staff shall clear the reported outstanding checks from the Control and from the applicable individual offender ledgers.

### **XXI. MONTHLY REPORT:**

State Form 16952, TRUST FUND BALANCE SHEET, (ATTACHMENT VI) shall be completed by the designated staff after reconciliation of the monthly bank statement. This report shall be forwarded to the Facility Head for review.

Two (2) copies of the June TRUST FUND BALANCE SHEET shall be sent to the Chief Executive Officer/Finance and Performance who shall forward the second copy to the State Board of Accounts.

A copy of the monthly TRUST FUND BALANCE SHEET shall be maintained in the facility's Business Office in accordance with the appropriate record retention schedules.

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**XXII. APPLICABILITY**

These administrative procedures shall be applicable to all facilities, staff and offenders committed to the Department.

\_\_\_\_\_  
Signature on File

Edwin G. Buss  
Commissioner

\_\_\_\_\_  
8/13/09

Date