



# NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

|   |                                       |   |
|---|---------------------------------------|---|
| CD-024500 Inmate Trust Accounts         | Issued: 3/30/83<br>Effective: 4/14/83 | Reviewed: 08/16/23<br>Revised: 08/16/23 |
| Alisha Tafoya Lucero, Cabinet Secretary |                                       | <i>Original Signed and Kept on File</i> |

## AUTHORITY:

- A. N. M. Constitution, Article XX, Section 15.
- B. NMSA 1978, Sections 33-2-17 and 33-2-18, as amended.
- C. NMSA 1978, Sections 33-2-26, 33-2-43, 33-2-44, 33-8-8, and 33-8-13, as amended.
- D. NMSA 1978, Sections 6-1-13, 6-10-3, 6-10-10, and 6-10-54, as amended.
- E. NMSA 1978, Section 7-8A, as amended.

## REFERENCES:

- A. Policy *CD-100700*, Inmate Employment and Labor Compensation System.
- B. ACA Standard 2-CO-1B-05, 2-CO-1B-06 2-CO-1B-14, Standards for the Administration of Correctional Agencies, 1993.
- C. ACA Expected Practices 5-ACI-1B-07, 5-ACI-1B-20, 5-ACI-1B-21, 5-ACI-1B-22, 5-ACI-1B-23, 5-ACI-7A-13, and 5-ACI-1B-24, *Performance Based Standards and Expected Practices for Adult Correctional Institutions*, 5<sup>th</sup> Edition.
- D. Department of Finance and Administration (DFA) rules and regulations.
- E. Office of the State Treasurer Deposit Account Certification
- F. ITAS Policies & Procedures established by Administrative Services Division Financial Management Bureau.

## PURPOSE:

To provide standards and guidelines for the management of inmate trust accounts and to provide guidelines for the deduction of certain monies from funds earned by inmates maintained in trust accounts pursuant to law.

## APPLICABILITY:

All employees responsible for managing inmate funds.

## FORMS:

- A. Stale-dated Checks Suspense Tracking *CD-024500.1*
- B. NMTRD New Mexico Report of Unclaimed Property

## ATTACHMENTS:

None

## DEFINITIONS:

- A. *Dependent Family*: Individual(s) an inmate is required to make child support payments to, as ordered by the courts and monitored by the Child Support Enforcement Division of the Human Services Department.
- B. *Net Compensation*: The remaining amounts of an inmate's wages after withholdings have been deducted, if applicable.
- C. *Wages*: Money earned by an inmate as compensation for work/services including, but not limited to, payments rendered pursuant to NMSA 1978, Section 33-2-26, NMSA 1978, Section 33-8-8, and NMSA 1978, Section 33-8-13; or money earned in work projects certified pursuant to the federal private sector prison industry enhancement certification program; or money earned in inmate work-release programs. [ 5-ACI-7A-13]
- D. *Inmate*: A person incarcerated within the New Mexico Corrections Department penal system regardless of whether the person was convicted in New Mexico or is in New Mexico pursuant to an interstate compact agreement.

## POLICY:

Each facility shall maintain and control inmate trust accounts according to State statutes, DFA rules and regulations, generally accepted accounting principles (GAAP), and ITAS Policies and Procedures. Procedures shall ensure deductions of certain monies are made from wages earned by inmates, as authorized by law. [ 5-ACI-1B-07] [ 5-ACI-1B-20] [ 5-ACI-1B-21] [2-CO-1B-05] [2-CO-1B-14]

All financial transactions permitted between inmates must have prior approval by staff. [ 5-ACI-1B-23]

Inmates can deposit personal funds in interest-bearing accounts and accrue the interest earned on those accounts. [5-ACI-1B-22)

Any interest earned on monies in funds established for inmates, other than operating funds, will accrue to the benefit of the inmates. [5-ACI-1B-20] [2-CO-1B-14]

Restitution is collected and ultimately made available to the victims of crime and/or their survivors, consistent with the laws and legal practices within the jurisdiction. [ 5-ACI-1B-24]



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## AUTHORITY:

Policy *CD-024500*

## PROCEDURES: [ 5-ACI-1B-20] [2-CO-1B-14]

### A. Establishment and Maintenance of Inmate Trust Accounts: [2-CO-1B-05]

1. Inmate Trust Fund (ITF) accounts are maintained for each inmate on the Inmate Trust Accounting System (ITAS) and in accordance with ITAS Policies and Procedures.
2. The Administrative Services Division-Financial Management Bureau (FMB) shall establish an account that shall be known as the Inmate Master Trust Account.
3. Upon approval of the Facility Warden, an inmate may open an interest-bearing savings account with a local financial Institution. The inmate will accrue the interest earned in accordance with the local financial institution rates. [ 5-ACI-1B-22]
4. The Business Manager (or designee) of each facility is responsible for the maintenance, reconciliation and daily activity of accounts for inmates assigned to that respective facility.
5. FMB is responsible for the reconciliation of the ITF.
6. Establishment of the ITF accounts, deposits, balances, transactions and financial reporting shall be governed by all guidelines and procedures set forth by State Statutes, DFA Rules and Regulations, Generally Accepted Accounting Principles (GAAP) and the ITAS Policies and Procedures Manual established by the ASD-Financial Management Bureau. [ 5-ACI-1B-21]
7. ITF accounts are confidential. No information regarding an ITF account shall be given to other inmates.
8. The ITF shall be used for issuing checks on approved purchases and transfers of funds by inmates or inmate clubs or as specified by the Warden or Business Manager concerning inmates assigned to that respective facility.
9. Each facility shall select individuals as authorized signers of checks issued by its ITF. Each check requires two signatures.
10. After the appropriate deductions are made (e.g. Federal Withholding, State Withholding and Social Security, if applicable), net compensation earned by inmates is placed into the

Inmate's Regular Spending Account. Deductions for discharge money are transferred to the inmate's Discharge Money Account. Deductions for Crime Victims' Reparation and/or court-ordered restitution and child support are held in the Crime Victims' Reparation (CVR) and Child Support Enforcement Division (CSED) accounts and remitted to the appropriate agency or specified victim and/or their survivors after the end of the month. [ **5-ACI-7A-13**] [ **5-ACI-1B-24**]

11. All funds sent to inmates from outside sources must be sent via US mail. Funds received must be in the form of a money order, except for approved vendor refunds, court settlements, bond refunds from United States or New Mexico courts, or county detention centers. Funds received should indicate the name of the sender. If the funds are a gift, the sender's name must appear on the inmate's list of visitors and their address should match the visitor application. Cash, currency and personal checks sent via the mail, gifts received anonymously from anyone not on the inmate's list of visitors, from anyone permanently suspended, or indefinitely suspended from visiting shall not be accepted by the facility and will be returned to the sender. All funds received through the mail should indicate the receiving inmate's commitment name and number. Only funds received in proper form will be deposited in the designated inmate's trust account and a receipt will be furnished to the inmate.
12. All refunds from vendors for items ordered from approved facility vendors shall be deposited back into the inmates' trust account. For inmates released from NMCD custody, the vendor check shall be sent to the inmate's last known address.
13. Inmates may not send funds to any person who is not on their approved visitors list. Funds may be sent from an inmate's account to individuals on the inmate's list of visitors, in accordance with the following procedure: the inmate will complete a debit memo and forward it for processing through his assigned Classification Officer. The Classification Officer will review the inmate's visiting list and confirm the recipient is an approved visitor. Upon confirmation of the recipient, the debit memo will be forwarded for processing through the facility business office.
14. Visitors will not be permitted to leave money, in any form, at the facility. All visitors will be instructed to use the approved route specified in Paragraph A.11, above, to send funds to inmates.
15. Funds received through facility program activities shall be in money order form. No cash or personal checks will be accepted.
16. Inmates may not transfer money to other inmates without prior approval. Consideration for an exception to policy may be given to certain incarcerated family members with a verifiable family emergency. Such requests must be made to the Director of Adult Prisons (or designee) for approval. [ **5-ACI-1B-23**]
17. Deposits of ITF monies shall be made on the day of receipt or within one business day of receipt by the Business Manager (or designee) of each facility. All funds held overnight shall be secured in a locked box in a designated location. [ **2-CO-1B-06**]
18. Deposits of inmate monies will be posted to the inmate's ITAS account within forty-eight

- (48) hours of receipt. Inmates will be furnished receipts of all transactions upon posting of accounts.
19. In the event that an inmate's deposit is returned by the bank unpaid (e.g., NSF) the deposit to the inmate's account will immediately be reversed and the inmate notified. If the inmate's spending account balance has insufficient funds to cover the returned amount their account shall be frozen until the full amount of the original deposit is recovered.
  20. ITF accounts will be subject to both internal and annual audits performed by the Corrections Department and the New Mexico State Auditor (or designee).
  21. ***The person in charge of the day-to-day ITF transactions will not conduct reconciliation.*** The Business Manager (or designee) is responsible for the preparation of the internal monthly reconciliation on the facilities ITF. The Business Manager (or designee) will forward the reconciliation report, bank statement and other pertinent information to FMB by the 15th of each month for the prior period. The FMB will be responsible for the preparation of the reconciliation of the Inmate Master Trust Account.
  22. FMB will track and record miscellaneous expenses including monthly bank maintenance fees and check printing costs charged to ITF. FMB will prepare quarterly statements related to those miscellaneous expenses and forward to each facility's business manager. It is each facility's responsibility to pay these fees.
  23. On a quarterly basis the profits from interest earned on monies in funds established for inmates, other than operating funds, will be distributed evenly amongst the NMCD facilities to be deposited in the designated inmate welfare account used to the benefit of the inmate population. [5-ACI-1B-20] [2-CO-1B-14]
  24. The Business Manager (or designee) shall ensure that monthly reconciliations are prepared on all ledger accounts held within the facility's ITF. This will include subsidiary accounts, club accounts, and inmate store accounts. At this time, all outstanding amounts owed will be identified and payment made.
  25. ASD-Financial Management Bureau will maintain all charts of accounts to be used within the IFT. Accounts shall not be added, changed, or deleted without prior approval. Such requests shall be made to the Inmate Trust Accountant within the FMB for approval.
  26. On a monthly basis, the individual at the facility assigned to the inmate trust account shall verify if any outstanding checks are for inmates back in NMCD custody. If the inmate is back in custody, the check should be voided and the amount credited to the inmate's account.
  27. If an ITF check remains outstanding after six months or is returned as undeliverable the check is deemed unclaimed or abandoned property. The facility should retain all pertinent information required in Form CD-024500.1 on each check deemed unclaimed and reported to the Taxation and Revenue Department at least annually. Several checks may be reported on one form.
    - If the unclaimed check is payable to a previous inmate, the check shall be voided,

any Gate Money provided to the inmate upon release shall be returned to the General Fund and remaining funds shall be transferred to the suspense account.

- If the unclaimed check is payable to anyone other than a previous inmate, the check shall be voided and returned to the original account. Care shall be taken to ensure that the original account is active.
28. The Facility Business Manager or the individual assigned by the Business Manager is responsible for ensuring that stale-dated checks are voided and forwarding any resulting amounts deposited to an inmates account after their release.
  29. Within thirty (30) days of identifying unclaimed Inmate monies, the balance of the ITF will be transferred to the suspense account held at the facility. At least annually, all monies in the suspense account shall be transferred to the New Mexico Taxation and Revenue Department – Unclaimed Property Office using the TRD Report of Unclaimed Property Process
  30. Money Orders from a single payor to multiple unrelated inmates are considered suspicious and should be sent to the Security Threat Intelligence Unit for investigation.

**B. Authorized Deductions from Net Compensation: [ 5-ACI-7A-13]**

1. Before earnings are deposited into an inmate's trust account, certain deductions shall be made, refer to Policy *CD-100700*, Inmate Employment Compensation, for details regarding types and amounts of deductions.
2. In no event shall total deductions for victim restitution, costs of confinement, discharge money, child support or a combination of the four authorized deductions exceed 50% of the net compensation.

**C. Responsibilities of Warden:**

Each Warden shall be responsible for promulgating policy and procedures for operating the Trust Fund Accounts which comply with these guidelines and which address at a minimum:

- Receipts of funds,
- Deposits and bank accounts,
- Authorized deductions pursuant to established law,
- Authorized expenditures from trust accounts,
- Approval and signature required for checks.

**D. Inmates under Interstate Compact:**

Interstate Compacts state that inmates shall be treated in an equal manner with similar inmates in the receiving state.

1. Gate Money:

Gate money shall be deducted from their wages and sent with the inmate when he/she is returned to the sending state.

2 Crime Victims Reparation Fund:

New Mexico Law provides that if the sentencing court has not ordered restitution to a particular victim, that deductions are paid to the Crime Victims Reparation Fund. Inmate wages are paid by the State of New Mexico to inmates under Interstate Compact and the same deductions will be made.