INDIAN AFFAIRS
DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

DOCUMENT IDENTIFICATION NUMBER 76 IAM 13	SUBJECT **Account Restriction Policy for the Indian Land Consolidation Program**	RELEASE NUMBER #08-09
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE MAR 13 2008

EXPLANATION OF MATERIAL TRANSMITTED:

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

Attached is a policy concerning the land consolidation program that is effective as stated in the chapter. The attached policy applies only to land sale transactions involving the Indian Land Consolidation Program pursuant to the 1983 authority of The Indian Land Consolidation Act, as amended in 2000 and 2004. Please assure that the appropriate Agency Superintendent, BIA and contract staff receive a copy of the policy (policies) and implement them immediately.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.

Jerry Gidner
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: None

Insert: 76 IAM 13

1.1 Purpose. This policy defines when and how a Central Acquisition Center (CAC) initiates a request to restrict an Individual Indian Money (IIM) account in order to recover funds wrongly deposited in that account during the purchase of fractionated land interest(s) by the Indian Land Consolidation Program (ILCP).

When an administrative error wrongfully deposits funds into an IIM account, 25 CFR 115 Subpart E provides the authority to restrict the IIM account in an attempt to recoup that deposit. Procedures are defined within the Interagency Procedures Handbook under the Section titled "Management of Trust Funds Derived from Assets and Resources on Trust and Restricted Land," Chapter 10, "Placing accounts on supervised or encumbered status," and Chapter 11 "Encumbered Accounts, Distribution Plans." The wrongful deposit of funds into an IIM account can occur during the purchase of undivided fractional interests by the ILCP when; the fractionated interest purchased from a trust land owner is more than the owner actually had title to; purchase of an interest that an owner no longer had title to; or the purchase price of the interest exceeds the authorized expenditure of Fair Market Value (FMV).

1.2 Scope. This policy applies to all regions where the ILCP is acquiring or has acquired fractional land interest(s).

1.3 Policy. Effective immediately, the following policy will be implemented for the ILCP when a payment for the acquisition of fractionated interests is wrongly deposited due to an administrative error into the IIM account of the former owner, and when the recovery of government funds requires a restriction be requested for an IIM account.

A. If a wrongful deposit is made to an IIM account, the CAC should contact the account holder and advise them of the circumstances leading to the administrative error and the resultant wrongful deposit. The CAC should provide the owner with the option to either return the wrongful deposit, or have a restriction placed on their IIM account that will affect their receipt of future revenue earned.

B. The CAC should also review the property inventory of the account holder and determine if the FMV of any of the fractional interest(s) on that inventory, if sold to the ILCP, would equal or exceed the wrongful deposit. If there are fractional interests that could be sold to the ILCP that would equal or exceed the wrongful deposit and through the sale of those interests release a restriction on the account, the account holder should so be advised.

C. The CAC will create an affidavit identifying the error and appropriate change to the selling price and record that document with the original deed.

D. If the account holder returns the wrongly deposited funds within 30 days of notification of the error, the funds will be returned to the general acquisition

account. A copy of the recorded affidavit and deed can be provided to the owner.

E. If the account holder does not return the wrongly deposited funds, the ILCP Coordinator will submit to the Superintendent with jurisdiction, a request to restrict the owner's IIM account. The CAC will include written evidence with the request that an administrative error occurred.

F. If a favorable decision is received from the Superintendent and if he/she requests ILCP assistance; a notice (Kennerly) will be prepared by the CAC for the Superintendent's signature and sent with a Hearing Waiver by certified mail to the account holder. 25CFR 115.605 identifies the information to be included in the notice. All documentation (decision letter, written evidence, notice, date stamp of mailing, and the ILCP general acquisition account string) is then provided to the Office of Trust Funds Management (OTFM). At the request of the Superintendent, and in consultation with the Superintendent and the account holder, the CAC will prepare an encumbrance distribution plan and provide the Superintendent approved plan to OTFM.

G. Any additional interests purchased to satisfy the wrongly deposited funds will conform to all ILCP policies and procedures in place at the time the wrongful deposit is identified.

1.4 Authority.

A. The American Indian Probate Reform Act of October 27, 2004, P. L. 108-374 (118 Stat. 1773)

B. P.L. 106-462, **The Indian Land Consolidation Act** of November 7, 2000, as amended (114 Stat. 1991). Section 213 of the Act authorizes the Secretary of the Interior (the Secretary) to acquire fractionated land interests in trust or restricted land from individual owners at Fair Market Value.

C. 25 CFR 115 Trust Funds for Tribes and Individual Indians, Subpart E, IIM Accounts; Hearing Process for Restricting an IIM Account

1.5 Responsibilities.

A. Director, Bureau of Indian Affairs (BIA) is responsible for the development of National Policy affecting Indian lands.

B. Director, Indian Land Consolidation Center is responsible for coordinating the Bureau's nationwide program to consolidate fractionated interests in Indian lands pursuant to statutory requirements.

C. Deputy Director, Field Operations, BIA is responsible for overseeing the Regional Directors and disseminating policy to them.

D. Deputy Director, Trust Services, BIA is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.

E. Regional Directors, BIA are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.