

**Indian and Northern Affairs Canada -
Audit of Trust Accounts**

Internal Audit Report

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Audit and Assurance Services Branch**

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Initializes and Abbreviations

ADM	Assistant Deputy Minister
AES	Audit and Evaluation Sector
BCR	Band Council Resolution
CFO	Chief Financial Officer
CRF	Consolidated Revenue Fund
FMM	Financial Management Manual
FN	First Nation
GAAP	Generally Accepted Accounting Principles
HQ	Headquarters
IAB	Individual Affairs Branch
INAC	Department of Indian and Northern Affairs Canada
IOGC	Indian Oil and Gas Canada
LED	Lands and Economic Development
NWT	Northwest Territories Region
OASIS	Oracle Financial System
RO	Regional Operations
RIA	Resolution and Individual Affairs
RIMS	Royalty Information Management System
TB	Treasury Board of Canada
TFMS	Trust Fund Management System

Executive Summary

Introduction

Indian Moneys generally represent all moneys collected, received or held by the Her Majesty for the use and benefit of First Nations (FN) and/or band members. Indian Moneys, held within the Consolidated Revenue Fund (CRF), are managed pursuant to various sections of the *Indian Act*, which provides the legislative framework for the responsibility of the collection, maintenance, expenditure and accounting of Indian Moneys. At March 31, 2009, Indian Moneys trust accounts, which include band, individual and suspense accounts, represented an accumulated balance of \$1.2 billion in the CRF.

Indian and Northern Affairs Canada (“INAC” or the “Department”) is responsible for the ongoing management of Indian Moneys in accordance with specific (moneys management) provisions of the *Indian Act*. The administration of Indian Moneys is overseen at a national level by the Individual Affairs Branch (IAB) within the Resolution and Individual Affairs (RIA) Sector and the Corporate Accounting and Materiel Management (CAMP) Branch within the Chief Financial Officer (CFO) Sector. Responsibility for the ongoing and daily management of Indian Moneys within the Department has been delegated, with limited exceptions, to the regional offices.

All members of a FN have an interest in Indian Moneys which, for band accounts, are intended for the common use and benefit of the Band. Given the nature and the significance of the balance of Indian Moneys held in trust, trust accounts were identified as a high risk due to INAC’s significant fiduciary responsibility as a trustee and the high degree of sensitivity among FNs. As a result, an audit of trust accounts was included in INAC’s 2008-2010 Risk-Based Audit Plan (RBAP). The audit was conducted at Headquarters and regional offices between November 2009 and April 2010.

Objectives and Scope

The objective of this audit was to provide assurance over the adequacy and effectiveness of the departmental controls over the management of trust accounts. More specifically, the audit:

- Verified the accuracy and appropriateness of a sample of transactions within band and individual trust accounts;
- Assessed the adequacy and effectiveness of controls to confirm accuracy, integrity and completeness of the data interface between the CRF, the Resource

Information Management System (RIMS), the Trust Fund Management System (TFMS) and the Oracle (OASIS) Financial System; and

- Evaluated the efficiency, effectiveness, economy and compliance of accounting and administrative practices for band and individual trust accounts with established Departmental directives, procedures and policies.

The scope of the audit was limited to the financial management of Indian Moneys in trust. More specifically, this included detailed testing of the accounting and administrative practices related to the receipt, management and disbursement of band and individual trust accounts for the fiscal years ending March 31, 2008 and 2009; in accordance with specific (money management) provisions of the *Indian Act* and other relevant policies and guidelines. As a result, the ongoing negotiation and administration of on-reserve instruments (e.g. permits, leases and royalties) performed on behalf of FNs and the ongoing management of on-reserve minors, adoptees, mentally incompetent Indians (dependent adults) and decedent estates were excluded from the scope of the audit.

This audit did not include any Lands Settlement Claims that are maintained in third party trusts and therefore, are subject to different management processes.

Conclusions

Within the overall management control framework of the administration of Indian Moneys held in trust, Internal Audit is of the opinion that there are weaknesses in the design of key controls, specifically related to monitoring of suspense accounts and treatment of long-term suspense balances.

Internal Audit is further of the opinion that there are controls in place designed to ensure accurate and timely processing of trust account receipts and disbursements in accordance with all acts and departmental guidelines. This includes processes and procedures designed to maintain the integrity of data transferred into the departmental financial system. However, areas for improvement in the effectiveness of the controls were identified as follows:

- Timeliness of deposit of cash receipts;
- Due diligence and availability of supporting documentation and analysis to support the release of Indian Moneys from trust accounts;
- Monitoring of cash receipts to ensure completeness of Indian Moneys; and
- Clarity of roles within Finance to ensure adequate separation of duties over cash receipts (receipt and deposit).

Recommendations

This audit report provides a number of recommendations intended to address the audit findings. The recommendations provided in the report are:

- The ADM, RIA should develop and communicate a framework for the ongoing monitoring and clearing of suspense accounts within the regions. This should include the clarification of roles and responsibilities for the monitoring and creation of suspense accounts in the *Indian Moneys Manual and the Lands Management Manual*. There is an opportunity to coordinate the oversight of this monitoring activity with the CFO, through incorporating the status of suspense accounts as part of the regional monthly certification process.
- The ADM, RIA, in collaboration with the Senior ADM, Regional Operations (RO), should develop a policy, guidelines and associated processes to address long-term suspense accounts.
- The CFO should formally communicate with all regional offices to highlight INAC's cash deposit requirements as outlined in the *Financial Management Manual* (FMM). This requires that regional offices deposit all cash receipts totalling \$500 on a daily basis. There may be opportunities for Program Officers within the regional offices to educate remitters on the documentation requirements to support a cash receipt.
- The ADM, RIA, in conjunction with the CFO, should strengthen due diligence to ensure Indian Moneys are approved in accordance with the relevant BCR and the *Indian Act*.
- The ADM, RIA should establish tools and communicate detailed guidance to regions on the level of support required to accompany requests for access to Indian Moneys (band and individual) and on the level of analysis required by the Program Officers prior to the recommendation, approval and release of trust account moneys.
- The ADM, RIA, in conjunction with the ADM, Lands and Economic Development (LED), should develop a mechanism within existing system capabilities that would allow Program Officers to set up expectations of future cash receipts once an instrument is executed. Once established, the mechanism could notify Program Officers when the receipt of Indian Moneys is expected, which in turn, would trigger a follow-up if the receipt does not arrive within an acceptable period of time. Depending on the nature of this tracking mechanism, resource requirements to support it should be evaluated.
- The CFO should update the *FMM* to reflect the expectations of segregation of duties over cash receipts within Finance at the regional office. More specifically, in

circumstances where resource limitations only allow for one Finance resource to handle cash receipts, the monthly cash reconciliation should be performed by a separate Finance representative and should be reconciled back to the cash blotter prepared by the mail room.

1.0 Statement of Assurance

We have completed our audit over the management of Indian Moneys held in trust by Indian and Northern Affairs Canada (“INAC” or the “Department”). The objective of this audit was to provide assurance on the adequacy and effectiveness of the departmental controls over the management of trust accounts.

This audit was conducted in accordance with the requirements of the Treasury Board of Canada (TB) *Policy on Internal Audit* and followed the Institute of Internal Auditor’s Standards for the Professional Practice of Internal Auditing.

The audit team assessed the controls in place for the management and administration of trust accounts against selected audit criteria in accordance with specific (moneys management) provisions of the *Indian Act*, the *Financial Administration Act*, related regulations and applicable departmental policies and guidelines.

In my professional judgment, as Chief Audit and Evaluation Executive, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on a comparison of situations, as they existed at the time of the audit against the established audit criteria. It should be noted that the conclusions are only applicable to the areas examined and for the regions and sectors visited.

2.0 Introduction

Indian Moneys generally represent all moneys collected, received or held by Her Majesty for the use and benefit of First Nations (FN) and/or band members. Indian and Northern Affairs Canada (“INAC” or the “Department”) is responsible for the management of Indian Moneys in accordance with specific (moneys management) provisions of the *Indian Act*. Indian Moneys, held within the Consolidated Revenue Fund (CRF), are managed pursuant to specific sections of the *Indian Act*, the *Financial Administration Act* and associated regulations, which provide the legislative framework for the responsibility of the collection, maintenance, expenditure and accounting of Indian Moneys.

Band trust accounts relate to two types of Indian Moneys held within the CRF, including:

- Capital moneys – Money derived from the sale of surrendered land or capital assets of a First Nation. This includes, but is not limited to, royalties, bonus payments and other proceeds from the sale of timber, oil, gas, gravel or any other non-renewable resource.
- Revenue moneys- All Indian Moneys which are not capital moneys. Sources of revenue moneys include interest earned on band capital and revenue moneys, fine moneys, proceeds from the sale of renewable resources, band leasing activities and rights-of-way.

Indian Moneys are also held within the CRF on behalf of individuals pursuant to sections 42 to 52 of the *Indian Act*. Individual moneys include the administration of property of on-reserve minors, adoptees, mentally incompetent Indians (dependent adults) and decedent /missing heirs' estates.

At March 31, 2009, the Indian Moneys trust accounts represented approximately \$1.2 billion in the CRF, broken down as follows:

Trust Account Type	Interest Earned (March 31, 2009)	Closing Balance – March 31, 2009	Closing Balance – March 31, 2008
Band Capital	N/A	\$840M	\$763M
Band Revenue	N/A	\$232M	\$218M
Total Band Accounts	\$41M	\$1,072M	\$981M
Individual	\$2M	\$55M	\$51M
Suspense	\$1M	\$33M	\$34M
Total	\$44M	\$1,160M	\$1,066M

Table 1 – Breakdown of Indian Moneys held in the CRF

The oversight of the expenditure of Indian Moneys is primarily carried out by the Individual Affairs Branch (IAB) within the Resolution and Individual Affairs (RIA) Sector and the Corporate Accounting and Materiel Management (Camm) Branch of the Chief Financial Officer (CFO) Sector.

Most administrative and operational responsibilities for the administration of band and individual moneys under the *Indian Act* have been assigned to the regional offices. More specifically, critical responsibilities assigned to the regions include approval of requests for revenue expenditures under sections 66 and 69 of the *Indian Act* and approval of requests for capital expenditures (with the exception of those falling under paragraphs 64(1) (d) and (k) of the *Indian Act*). Authority for the approval of requests for capital

expenditures that meet the requirements of paragraphs 64(1) (d) and (k) of the *Indian Act* remain with the Minister of Indian Affairs.

All members of a FN have a community interest in band moneys, which are intended for their common use and benefit. As part of the three year Risk-Based Audit Plan (RBAP), approved by the Audit and Evaluation Committee on April 25, 2008, trust accounts were identified as a high risk due to the significance of the balance in the CRF, INAC's significant fiduciary responsibility and high degree of sensitivity among FNs.

3.0 Objectives

The objective of this audit was to provide assurance on the adequacy and effectiveness of the departmental controls over the management of trust accounts. More specifically, the audit:

- Verified the accuracy and appropriateness of a sample of transactions within band and individual trust accounts;
- Assessed the adequacy and effectiveness of controls to confirm accuracy, integrity and completeness of the data interface between the CRF, the Resource Information Management System (RIMS), the Trust Fund Management System (TFMS) and the Oracle (OASIS) Financial System; and
- Evaluated the efficiency, effectiveness, economy and compliance of accounting and administrative practices for band and individual trust accounts with established Departmental directives, procedures and policies.

4.0 Scope

The scope of the audit was limited to the financial management of Indian Moneys held in trust. More specifically, this included detailed testing of the accounting and administrative practices related to the receipt, management and disbursement of band and individual trust accounts for the fiscal years ending March 31, 2008 and 2009; in accordance with specific (moneys management) provisions of the *Indian Act* and other relevant legislation, regulations, policies and guidelines. As a result, the scope of this audit did not include the ongoing negotiation and administration of on-reserve resource contracts performed on behalf of FN bands or the ongoing administration of on-reserve minors, adoptees, mentally incompetent Indians (dependent adults) and decedent / missing heirs' estates. The scope of the audit did not include an assessment of the processes and controls, beyond the administration of interest, for Indian Moneys while held in the CRF.

This audit did not include any Lands Settlement Claims that are maintained in third party trusts and therefore, are subject to different management processes.

5.0 Approach and Methodology

The audit was conducted in accordance with the requirements of the Institute of Internal Auditors' Standards for the Professional Practice of Internal Auditing and the TB *Policy on Internal Audit*. This means that sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions are based on a comparison of situations, as they existed at the time of the audit and against the audit criteria. It should be noted that the conclusions are only applicable for the areas examined and the regions and sectors visited.

Consistent with the objectives and scope of this audit, the approach was not intended to provide assurance over the completeness of the trust accounts balances reported by the Department, but rather to provide assurance over the adequacy and effectiveness of the departmental controls for the management of Indian Moneys held in trust.

Based on the recommendations of the preliminary survey, issued in November 2008, to move forward with a full-scope audit of trust accounts, the planning phase of the audit was completed between November 2009 and January 2010. This planning phase was restricted to updating the audit team's understanding of the applicable policies, processes and guidelines through documentation reviews and interviews with representatives from Headquarters (RIA and CFO sectors), a sample of regions (Alberta and Saskatchewan) and Indian Oil and Gas Canada (IOGC).

Audit criteria were developed based on information gathered during the 2008 preliminary survey and finalized during the planning phase of the audit. The audit criteria served as the basis for developing the audit approach and the detailed audit program used in the examination phase of the audit. A complete listing of audit criteria is provided in *Annex A*.

The examination phase of this audit was conducted between January and March 2010. Using the audit program developed in the planning phase, the audit team assessed the administration and management of trust accounts in five regional offices: British Columbia (BC), Alberta, IOGC, Saskatchewan and Ontario. These regions were selected as they represented the largest dollar value of trust account balances within the CRF or their suspense account balances represented a significant percentage of the total

value of the overall suspense account balance across the Department. In addition, the specific trust account functions performed by the CFO and RIA sectors, such as semi-annual interest application and the approval of capital requests under paragraphs 64 (1)(k) of the *Indian Act*, were tested according to the audit program.

The following table summarizes the overall trust account and suspense account closing balances managed by each region for as of March 31, 2009:

Region	Overall Trust Account Balance (\$)	% of Trust Account Balance	Suspense Account Balance (\$)	% of Suspense Account Balance
Northwest Territories (NWT)	621,895	0%	707	0%
Atlantic	2,691,643	0%	69,502	0%
Quebec	32,741,756	3%	2,170	0%
Ontario	66,358,668	6%	2,208,954	7%
Manitoba	2,647,460	0%	178,996	1%
Saskatchewan	87,508,338	8%	568,364	2%
Alberta	818,573,894	71%	1,537,742	5%
Yukon	509,480	0%	-	0%
BC	131,945,070	11%	11,996,864	37%
IOGC*	16,173,690	1%	16,173,690	48%
Total	\$1,159,771,894	100%	\$32,736,989	100%

* While IOGC does not maintain any trust account balances, it represents the flow-through organization for all receipts related to oil and gas revenue, including royalties, rents and bonuses.

Table 2 – Breakdown of Overall Trust Accounts and Suspense Accounts by Region

The principal audit techniques used during the examination phase included:

- Documentation Review – Documents subject to review during the examination phase included, but were not limited to, policies, directives, frameworks, and procedures that support the *Indian Act*, *Financial Administration Act* and *TB Directive on Specified Purpose Accounts*.
- Compliance Testing – Audit testing was conducted using an audit program designed to assess compliance with the audit criteria (see Annex A) established for each audit objective.

- Interviews – Interviews were conducted at HQ with representatives from the CFO and RIA sectors. In addition, interviews were conducted at each of the five regional offices visited with management and staff responsible for the administration and management of Indian Moneys. Interview guides were developed for interviews conducted, taking into consideration the objectives of the audit and the audit criteria developed.

6.0 Conclusions

Within the overall management control framework of the administration of Indian Moneys held in trust, Internal Audit is of the opinion that there are weaknesses in the design of key controls; specifically related to monitoring of suspense accounts and treatment of long-term suspense balances.

Internal Audit is further of the opinion that there are adequate controls in place to ensure accurate and timely processing of trust account receipts and disbursements in accordance with all acts and departmental guidelines. This includes processes designed to maintain the integrity of data transferred into the departmental financial system. However, areas for improvement in the effectiveness of the controls were identified as follows:

- Timeliness of deposit of cash receipts;
- Availability of supporting documentation and analysis to support the release of Indian Moneys from trust accounts;
- Monitoring of cash receipts to ensure completeness of Indian Moneys; and
- Clarity of roles within Finance to ensure adequate separation of duties over cash receipts.

7.0 Findings and Recommendations

7.1 Suspense Accounts

The Crown is responsible for negotiating instruments on behalf of FNs relating to on-reserve land and resources, as outlined in the *Indian Act*, including, but not limited to, the *Indian and Oil Gas Act*. Instruments are documents which record an interest in reserve or designated lands, surrendered lands and the resources on or under them, including leases, resource permits, waste disposal permits, other permits and allotments. These instruments grant the right to use reserve land for a specific purpose and in exchange, the FN is compensated as per the terms and conditions of the agreement. As prescribed in the *Indian Act*, the Crown is responsible for land and resource instrument administration. Administration includes calculating, collecting, disposing of, and accounting for, the

compensation owed to a FN under an instrument. To facilitate the land and resource administration, INAC utilizes NetLands, an information management system and the Trust Funds Management System (TFMS) which records cash receipts (deemed Indian Moneys) from instruments, calculates interest on funds held in trust and records trust fund disbursements.

There are specific circumstances where cash receipts cannot be directly credited to a FN's trust account. Examples include the lack of a valid or current instrument, ongoing litigation or when insufficient information is provided to attribute the receipt to a specific instrument or band, or individual. According to INAC's *Indian Moneys Manual* (Chapter 5, 5.4) and *Manual for the Administration of Band Moneys* (Chapter 2, 7.3), cash receipts that cannot be directly attributable to a band, or individuals account are credited to a suspense account using the TFMS.

In instances when cash receipts have been recorded in a TFMS suspense account, the *Indian Moneys Manual* (section 5.4) dictates that it is the responsibility of the delegated program official in the regional offices to monitor the suspense account balances to ensure balances are cleared and credited to the appropriate FN band or individual account in a timely manner.

As of March 31, 2009, the balance of suspense accounts was approximately \$33M. A detailed aging of suspense account balances by region at that time is provided below in Table 3.

Region	<1 Year	1-2 Year	3-5 Year	6-10 Year	> 10 Year	Total by Region
NWT	-	-	-	-	707	707
Atlantic	69,504	-	-	-	-	69,504
Quebec	1,957	-	213	-	-	2,170
Ontario	247,840	120,375	661,301	746,630	432,808	2,208,954
Manitoba	62,974	5,831	39,273	28,321	42,597	178,996
Saskatchewan	253,586	20,040	48,160	114,016	132,562	568,364
Alberta	54,857	58,675	458,132	83,711	882,368	1,537,742
BC	2,513,884	1,680,519	1,831,184	2,482,625	3,488,652	11,996,864
IOGC	3,920,513	1,232,789	4,536,708	446,438	6,037,242	16,173,690
Grand Total	7,125,114	3,118,229	7,574,970	3,901,741	11,016,935	32,736,989

Table 3 – Aging of Suspense Accounts by Region

7.1.1 Monitoring of Suspense Accounts

There is currently insufficient monitoring of suspense accounts, resulting in the untimely release of funds from suspense into the appropriate trust account.

Audit Criteria (3.2): Moneys that are held in suspense are monitored, investigated and cleared appropriately.

Although the expectation for monitoring has been outlined in the *Indian Moneys Manual*, no formal framework has been established by HQ for the monitoring and clearing of suspense account balances in the regions. In the absence of clear direction from HQ, only one of the regions visited has established a formal monitoring program for suspense accounts. Without a formal program, individual program officers/managers were not proactively monitoring and following-up on suspense accounts in a timely and systematic manner. The results of audit testing performed on the suspense accounts identified the following:

- Instances where regional representatives could not confirm the current status of individual suspense accounts or the actions to be taken to release the suspense account (30%).
- Suspense account balances for which appropriate action had been taken to release the funds to the FN; yet the balance was never released from suspense (16%).
- Suspense account balances for which the FN no longer exists (4%).

As noted above, one region visited had developed a formal process for monitoring band suspense accounts whereby responsibility for initiating a summary report by band had been formally assigned. This report is created semi-annually and provided to Lands Officers and the Land Manager. Status updates by the Lands Officers are required for each suspense account and then tracked centrally.

Limited proactive monitoring of suspense accounts delays the release of moneys to potential FNs for their use and benefit. Further, by not releasing these moneys in a timely manner, the Crown may potentially incur unnecessary interest costs on these moneys held in suspense.

Recommendation #1:

The ADM, RIA should develop and communicate a framework for the ongoing monitoring and clearing of suspense accounts within the regions. This should include the clarification of roles and responsibilities for the monitoring and creation of suspense accounts in the *Indian Moneys Manual and the Lands Management Manual*. There is an opportunity to coordinate the oversight of this monitoring activity with the CFO, through incorporating the status of suspense accounts as part of the regional monthly certification process.

7.1.2 Treatment of Long-Term Suspense Accounts

No policy or processes are in place to address old suspense accounts for which no executable instrument will be implemented.

Audit Criteria (3.4): Processes in place in each regional office have been designed and are operational to maximize the efficiency, effectiveness, economy and timeliness of processing trust account transactions.

Specific regional offices have significantly old suspense account balances. As demonstrated in Table 3 above, two regions combined have a suspense account balance of \$9.5M for accounts over 10 years old. This balance represents 86% of suspense accounts older than 10 years (> 10 years) and 29% of the overall suspense account balance as of March 31, 2009. Old suspense account balances typically represent accounts that were established when a valid instrument was not in place or a dispute existed at the time of cash receipt. In many cases, as time has passed, the parties involved in the original transaction have changed, organizations involved now no longer exist and/or limited documentation is available; resulting in limited or no ability to obtain a valid instrument for the respective time period.

Cash receipts received can only be released to a FN's trust account once an executed instrument is in place. These older suspense accounts, which never had an associated valid instrument, continue to accrue interest with limited likelihood of resolution. However, in some cases, while no instrument was ever executed by the parties, the use of resources can be established.

No guidance or policy decision has been established by the IAB, CAMM and Lands Branches on how to resolve these older suspense accounts for which limited or no possibility to execute a valid instrument exists. Maintaining old cash receipts in suspense impacts the ability of a FN community to access moneys held in trust for their use and benefit.

Recommendation #2

The ADM, RIA, in collaboration with the Senior ADM, Regional Operations (RO), should develop a policy, guidelines and associated processes to address long-term suspense accounts.

7.1.3 Regional Cash Management

Cash receipts associated with suspense accounts are not being consistently recorded and deposited into the CRF in a timely manner.

Audit Criteria (1.1): Moneys received by INAC on behalf of a band or individual have been recorded accurately into the appropriate trust account, including suspense, if appropriate.

Regardless of whether a cash receipt is being credited to a band, individual or suspense account, once the cash receipt has been received, the funds should immediately be deposited in the CRF. This requirement is outlined in the INAC's *Financial Management Manual (FMM)* (Chapter 6.3), which states that, "*funds should be deposited daily at the designated deposit facility if the funds on hand are in excess of \$500.*"

In some cases, cash receipts related to Indian Moneys arrive at a regional office without sufficient information attached to associate the receipt to an instrument and thus, to a band. Regional testing of cash receipts identified two different approaches used when cash receipts cannot be immediately credited to a FN trust account. The first approach results in the cash receipt being entered into TFMS as a suspense account and immediately being deposited into the CRF. This approach is in compliance with INAC's *Indian Moneys Manual* and *FMM* requirement for daily cash deposits. The second approach results in no immediate entry of the cash receipt into TFMS (i.e. no suspense account created) as cash receipts are held in a safe until the appropriate allocation can be confirmed. Upon confirmation, the deposit is made and the receipt is credited directly to the band's trust account in TFMS.

Testing performed on cash receipts during the audit indicated that cash receipts were not directly deposited into the CRF in 25% (39 of 123) samples tested. In these instances, funds were deposited up to two weeks from the initial cash receipt date.

Withholding a cash receipt from bank deposit reduces the risk of creating and losing track of a suspense account. However, as cheques are being held physically for longer periods, the risk of potential loss or misplacement increases. This approach further contravenes INAC's *FMM* (Chapter 6.3), requiring timely processing and deposit of cheques received by the regional office.

Recommendation #3

The CFO should formally communicate with all regional offices to highlight INAC's cash deposit requirements as outlined in the *FMM*. This requires that regional offices deposit all cash receipts totalling \$500 on a daily basis. There may be opportunities for Program Officers within the regional offices to educate remitters on the documentation requirements to support a cash receipt.

7.2 Requests for Access to Indian Moneys

Band Accounts

Under specific provisions of the *Indian Act*, a FN may request of the Minister of Indian Affairs (or his/her assigned representative), to authorize the expenditure of their capital or revenue moneys. When the FN requests access to its Indian Moneys, the request must be accompanied by a BCR, outlining under what section of the *Indian Act* the request is being made, and providing all necessary supporting documentation. The *Manual for the Administration of Band Moneys* outlines the requirements for supporting documentation depending on the nature of the expenditure request and the section of the *Indian Act* under which the request is made. The *Manual for the Administration of Band Moneys* also outlines the Department's responsibility for analysis and assessing expenditure requests to ensure that they would benefit the FN and its members prior to approving the request.

Once the BCR and supporting documentation is received by the regional office, Program Officers must confirm that the request is eligible, as per the applicable provisions in the *Indian Act*. The Department has an obligation to conduct adequate due diligence to discharge its responsibilities prior to the approval and release of any Indian Moneys to determine whether the expenditure request is authorized, given the applicable provision of the *Indian Act* and may include an assessment of whether the expenditure is in the best interest of the band. This may include a detailed analysis of the supporting documentation accompanying the BCR, consideration of other relevant factors known by the Department and a review of the band's most recent consolidated financial statements, including supporting schedules (i.e. Schedule of Receipt and Disposal of Indian Moneys) to ensure there is consistency with departmental records and to highlight any discrepancies or follow-up required prior to recommending the expenditure for approval.

Many FNs have, under section 69 of the *Indian Act*, been assigned responsibility for the management of the band's revenue trust accounts and therefore, limited documentation is necessary to support a request for access to revenue moneys under this authority. Those bands not having this authority under section 69, must observe section 66 of the *Indian Act* in managing their revenue trust accounts. Section 66 requires greater Ministerial involvement in the release of trust moneys, similar to section 64.

Once the Department's due diligence has been completed and approval for the release of Indian Moneys has been provided, no further follow-up activities are required as the obligation of Canada has been satisfied. Once the funds have been released and received by the band, the FN council becomes fully responsible and accountable to its members for the funds.

Individual Accounts

Consistent with band accounts, expectations have been set out in the available guidance for supporting documentation to accompany requests for access to individual trust accounts and that sufficient analysis is completed to allow for the approval of the release of funds. For example, the *Administration of Property Belonging to Indian Minors* (Chapter 7) outlines that minors reaching the age of majority requesting access to their individual trust account balance must provide proof of identification and that a Program Officer must document a recommendation on whether or not to release the funds prior to the approval by the regional authority. Further, the *Administration of Property Belonging to Mentally Incompetent Indians (Dependent Adults)* (Chapter 8) outlines that when processing a request for access to the individual's trust account, an administrator must complete an assessment of the written request to provide to the regional authority for approval.

7.2.1 Support and Analysis for Requests for Access to Indian Moneys

Sufficient supporting documentation and analysis was not consistently available to demonstrate the Department's due diligence activities to support the release of Indian Moneys from trust accounts.

Audit Criteria (I.2): Band and individual trust account distributions are valid, complete, and approved by an appropriate delegated authority once sufficient due diligence is executed. Adequate support for all transactions were provided by the band and processed in accordance with the specific requirements of the *Indian Act* and the *Financial Administration Act (FAA)*.

Band Accounts

The results of testing confirmed that the regional offices generally had established processes, supported by tools and templates, to document the review and approval of BCR requests (and the required supporting documentation).

However, from the sample of expenditures tested, inconsistencies were identified in the supporting documentation provided by the FN to accompany BCRs and/or the level of analysis completed by the Program Officer, on which to base a final approval. One region could not provide sufficient support and analysis for any of the capital account requests tested. For the remaining regional offices, of the band requests requiring support and analysis, 6% (5 out of 80 samples) did not demonstrate sufficient supporting

documentation and 4% (3 out of 80 samples) did not contain adequate analysis to support the approval of the request. Finally, none of the regions visited included a review of the band's most recent consolidated financial statements, including the Schedule of Receipt and Disposal of Indian Moneys, as part of their due diligence procedures.

The Department cannot discharge its responsibilities when insufficient due diligence and incomplete analysis is performed. More specifically, if the required supporting documentation is not provided and sufficient and if appropriate analysis is not performed or documented, including reference to supporting evidence, there is a risk that decisions are made without all associated information; potentially leading to inappropriate approval of BCRs or an inability to respond to challenges to departmental decisions. Further, if there is inadequate documentation or analysis, there is a risk that Indian Moneys in trust may be withdrawn and subsequently spent in a manner that: does not benefit the band; is inefficient; and/or is not permitted under the provisions of the *Indian Act*.

Individual Accounts

Testing results confirmed that a consistent approach, across the regions, has not been implemented to document the analysis and approval of moneys released from an individual trust account. Limited documentation was available to demonstrate that sufficient analysis was performed prior to approval and disbursement. Based on the testing performed, 10% (4 out of 40) of individual trust account transactions tested did not demonstrate sufficient supporting documentation and 23% (9 out of 40) did not contain adequate analysis to support the approval of the request.

Without evidence of the analysis prior to the recommendation and approval of a release of funds from an individual trust account, INAC may not be able to demonstrate its due diligence in assessing the request and ensuring the appropriate release of funds to the appropriate individual. Consistent with band trust accounts, this could present difficulties for INAC if it is called upon to prove discharge of its responsibilities in connection with the release of trust funds consistent with the *Indian Act*.

Recommendation #4

The ADM, RIA, in conjunction with the CFO, should strengthen due diligence to ensure Indian Moneys are approved in accordance with the relevant BCR and the *Indian Act*. If reliance is to be placed on the "Statement of Receipts and Disposal of Indian Moneys" submitted as part of the audited financial statements, they should be audited.

Recommendation # 5:

The ADM, RIA should establish tools and communicate detailed guidance to regions on the level of support required to accompany requests for access to Indian Moneys (band and individual) and on the level of analysis required by the Program Officers prior to the recommendation, approval and release of trust account moneys.

7.3 Band Receipts

In accordance with the *Indian Act*, regions have been delegated specific authorities over land management. One of these authorities includes the responsibility for negotiating (with involvement by the FN), preparing and executing leases, licenses and permits to non-band members on reserve land. INAC’s *Land Management Manual* provides an overview of INAC’s fiduciary responsibility for administering leases and permits. As outlined in Chapter 8 of the *Lands Management Manual*, INAC is responsible for the collection of compensation related to leases and permits; which includes “receiving, verifying and recording the payments made, comparing them to the amount owed and noting any differences within the prescribed time periods provided under the instrument”.

7.3.1 Completeness of Band Receipts

There is currently no mechanism in place to ensure the completeness of band trust account receipts.

Audit Criteria (3.1): A management control framework has been established and is monitored to ensure that trust accounts are administered in accordance with the *Indian Act*, the *Financial Administration Act*, the *TB Policy on Specified Purpose Accounts* and departmental policies and directives.

When an instrument is negotiated and executed by INAC on behalf of a FN, the details are maintained within the NetLands information management system. Due to system limitations, regions are unable to generate a listing of accounts receivable, a listing of expected cash receipts or confirm that they have received all required cash receipts related to the negotiated instrument.

Currently, the Department relies on Program Officers – who manage multiple FN accounts and instruments – to identify any missing receipts and on FNs to recognize from their monthly account statement when a cash receipt has not been credited to their

account. Neither approach can guarantee INAC of the completeness of the Indian Moneys received, impacting their fiduciary responsibility as outlined in the *Indian Act*.

Without an established mechanism to track an account receivable or expectation of a receivable, INAC cannot readily detect payments that are in arrears or payments that might have being applied to the wrong instrument and/or band trust account. This impacts the Department's ability to assess the completeness of the Indian Moneys collected and the follow-up actions required.

Recommendation #6:

The ADM, RIA, in conjunction with the ADM, LED, should develop a mechanism within existing system capabilities that would allow Program Officers to set up expectations of future cash receipts once an instrument is executed. Once established, the mechanism could notify Program Officers when the receipt of Indian Moneys is expected, which in turn, would trigger a follow-up action if the receipt does not arrive within an acceptable period of time. Depending on the nature of this tracking mechanism, resource requirements to support it should be evaluated.

7.3.2 Segregation of Duties

Limited segregation of duties over cash receipts was observed within Finance at the regional offices.

Audit Criteria (1.1): All Moneys received by INAC on behalf of a band or individual have been recorded accurately into the appropriate trust account including into suspense if appropriate.

During regional site visits, it was noted that there is typically limited segregation of duties within Finance for the recording of cash receipts into TFMS, the preparation of the bank deposit slip for the cash receipts and the subsequent deposit of the cash receipts into the CRF.

Chapter 6.3 of the *FMM* outlines the procedures to receive public money by mail specifically that the “mail room clerk ensures that mail that could contain funds is opened in the presence of two designated employees”. The *FMM* does not address segregation of duties within Finance at the regional level. Typically, cash management practice requires two separate individuals to be involved in the preparation of the bank deposit and system processing of cash receipts; one individual is responsible for the preparation of the cash deposit slip and the deposit to the bank while the other records the receipt in the system.

With no segregation of duties and the lack of a receivables listing, funds received by INAC could be omitted from entry into TFMS and associated bank deposits could go undetected.

With respect to Indian Moneys, the risks of the limited segregation of duties has less of an impact as no accounts receivable has been established for the cash receipts (as outlined in Section 7.4.1). However, there continues to be inherent risks associated with only one Finance representative, who receives the cash receipts from the mail room (including the cash blotter reconciling all the receipts from the day), preparing the bank deposit and depositing the money in the CRF.

Recommendation # 7:

The CFO should update the *FMM* to reflect the expectations of segregation of duties over cash receipts within Finance at the regional office. More specifically, in circumstances where resource limitations only allow for one Finance resource to handle cash receipts, the monthly cash reconciliation should be performed by a separate Finance representative and should be reconciled back to the cash blotter prepared by the mail room.

8.0 Management Action Plan

Recommendations	Management Actions	Responsible Manager (Title)	Planned Implementation Date
<p>1. The ADM, RIA should develop and communicate a framework for the ongoing monitoring and clearing of suspense accounts within the regions. This should include the clarification of roles and responsibilities for the monitoring and creation of suspense accounts in the Indian Moneys Manual and the Lands Management Manual. There is an opportunity to coordinate the oversight of this monitoring activity with the CFO, through incorporating the status of suspense accounts as part of the regional monthly certification process.</p>	<ul style="list-style-type: none"> - Individual Affairs Branch (IAB) in collaboration with Lands Branch (LED) to develop a lands related suspense account monitoring framework. This work will include the modernization of appropriate tools such as a national checklist, categorization of transactions criteria, and clarifying the criteria/conditions in which the department will deposit receipts. - Consistent monitoring procedures will be developed to deal with transactional issues and part of this solution is a national directive to be issued in 2010 making the use of the Netlands tracking system. - The monthly certification process will incorporate the requirements for justification of the status of suspense accounts and define consequences for not providing adequate justification and documentation. 	<p>DG, IAB (RIA) DG, Lands (LED)</p> <p>DG, Lands (LED)</p> <p>DG, Corporate Accounting and Material Management (CAMM) (CFO).</p>	<p>March 2011</p> <p>October 2011</p>

Recommendations	Management Actions	Responsible Manager (Title)	Planned Implementation Date
<p>2. The ADM, RIA, in collaboration with the Senior ADM, RO, should develop a policy, guidelines and associated processes to address long-term suspense accounts.</p>	<p>- IAB (RIA) in collaboration with Lands (LED) will develop a comprehensive strategy to address long-term lands related suspense accounts which will include the modernization of associated policies, guidelines, processes and procedures as well as to support a monitoring framework.</p>	<p>DG, IAB (RIA) DG, Lands (LED)</p>	<p>March 2011</p>
<p>3. The CFO should formally communicate with all regional offices to highlight INAC's cash deposit requirements as outlined in the FMM. This requires that regional offices deposit all cash receipts totalling \$500 on a daily basis. There may be opportunities for Program Officers within the regional offices to educate remitters on the documentation requirements to support a cash receipt.</p>	<p>- CAMM (CFO) in collaboration with Lands (LED) to integrate the Receipt and Deposit of Public Money Policy into the <i>Indian Moneys Manual</i> and the <i>Lands Management Manual</i>. An appropriate procedure will be created to ensure the immediate clearing of suspense accounts which are created to accommodate the lag time between activation and registration of land instruments.</p>	<p>DG, CAMM (CFO) DG, Lands (LED)</p>	<p>March 2011</p>
<p>4. The ADM, RIA, in conjunction with the CFO, should strengthen due diligence to ensure Indian Moneys are approved in accordance with the relevant BCR and the <i>Indian Act</i>. If reliance is to be placed on the "Statement of Receipts and Disposal of Indian Moneys" submitted as part of the audited financial</p>	<p>- Following consultations with DLSU regarding the reporting requirements for the expenditure of Indian moneys, the Indian Moneys, Estates and Treaty Annuities Directorate will oversee rigorous due diligence prior to the release of Indian Moneys. In addition, for future requests a</p>	<p>DG, IAB (RIA) DG, CAMM (CFO)</p>	<p>September 2011</p>

Recommendations	Management Actions	Responsible Manager (Title)	Planned Implementation Date
statements, they should be audited.	First Nation will be required to provide assurance that any previously released amounts were properly expended according to the approved BCR.		
5. The ADM, RIA should establish tools and communicate detailed guidance to regions on the level of support required to accompany requests for access to Indian Moneys (band and individual) and on the level of analysis required by the Program Officers prior to the recommendation, approval and release of trust account moneys.	- In collaboration with the CFO the policies, procedures, manuals, training modules and quality assurance processes to ensure national consistency will be reviewed for adequacy.	DG, IAB (RIA)	September 2011
6. The ADM, RIA, in conjunction with the ADM, LED, should develop a mechanism within existing system capabilities that would allow Program Officers to set up expectations of future cash receipts once an instrument is executed. Once established, the mechanism could notify Program Officers when the receipt of Indian Moneys is expected, which in turn, would trigger a follow-up action if the receipt does not arrive within an acceptable period of time. Depending on the nature of this tracking mechanism, resource requirements to support it should be evaluated.	- IAB (RIA) in collaboration with Lands (LED) to assess the current Netlands software and deploy patches improving the reporting functionality of the current system as well as the revenue tracking and notification functions. These fixes will be deployed in 2010 along with a directive making the use of the system mandatory for all revenue generating instruments. A complete system rebuild will include full integration with the Lands Registry and Trust Fund Management system. This will be	DG, IAB (RIA) DG, Lands (LED)	March 2011

Recommendations	Management Actions	Responsible Manager (Title)	Planned Implementation Date
	contingent on funding.		
<p>7. The CFO should update the <i>FMM</i> to reflect the expectations of segregation of duties over cash receipts within Finance at the regional office. More specifically, in circumstances where resource limitations only allow for one Finance resource to handle cash receipts, the monthly cash reconciliation should be performed by a separate Finance representative and should be reconciled back to the cash blotter prepared by the mail room.</p>	<p>- CAMM (CFO) will update the Financial Management Manual (Policy on Receipt and Deposit of Public Money) to better reflect the expectations of segregation of duties over cash receipts within Finance at the regional offices.</p>	<p>DG, CAMM (CFO)</p>	<p>March 2011</p>

Annex A – Trust Fund Audit Criteria

1. Verify the accuracy and appropriateness of a sample of transactions within band and individual trust accounts.
 - 1.1 All Moneys received by INAC on behalf of a band or individual have been recorded accurately into the appropriate trust account, including into suspense, if appropriate.
 - 1.2 Band and individual trust account distributions are valid, complete, and approved by an appropriate delegated authority once sufficient due diligence is executed. Adequate support for all transactions were provided by the band and processed in accordance with the specific requirements of the *Indian Act* and the *Financial Administration Act (FAA)*.
2. Assess the adequacy and effectiveness of controls to ensure completeness, accuracy and integrity of the data interface between the Consolidated Revenue Fund (CRF), Resource Information Management System (RIMS), Trust Fund Management System (TFMS) and OASIS.
 - 2.1 Ongoing reconciliations are performed to ensure accuracy and completeness of trust account balances between RIMS (IOGC), TFMS, OASIS and the CRF, including supervisory review, approval and maintenance of supporting documentation.
3. Evaluate current accounting and administrative practices pertaining to the band and individual trust accounts in terms of efficiency, effectiveness, economy and compliance with established Departmental directives, procedures and policies.
 - 3.1 A management control framework has been established and is monitored to ensure that trust accounts are administered in accordance with the *Indian Act*, the *Financial Administration Act (FAA)*, the Treasury Board (TB) *Policy on Specified Purpose Accounts* and departmental policies and directives.
 - 3.2 All Moneys that are held in suspense are monitored, investigated and cleared appropriately.
 - 3.3 Interest on trust accounts is calculated accurately and applied to each band and individual trust account in accordance with TB requirements, as outlined by the *Policy on Specified Purpose Accounts*.
 - 3.4 Processes in place in each regional office have been designed and are operational to maximize the efficiency.