



# FEDERAL REGISTER

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## TITLE 25—INDIANS

### Chapter I—Bureau of Indian Affairs, Department of the Interior

#### REPUBLICATION OF REGULATIONS

Chapter I of Title 25 is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material, the various amendments and additions are brought together in their entirety and the chapter has been arranged on a functional rather than alphabetical basis.

The numbers of the parts in this chapter have been adjusted to conform with its revised arrangement. The effective date of these numbers shall be the date of this republication. Existing delegations of authority, forms and other legal or administrative documents which refer to former part numbers of Chapter I are continued in effect and shall be construed to refer to the new part numbers until modified or revoked. A listing of the respective new and former part numbers is set forth below.

It is the intent of the Department in preparing this republication to make no substantive changes in the regulations and this republication is approved accordingly.

FRED A. SEATON,  
*Secretary of the Interior.*

DECEMBER 6, 1957.

The following table lists the former part numbers and headings and indicates their position in reorganized Chapter I:

Former Part No.	Former Part No.	New Part No.	Former Part No.	New Part No.
42	Care of Indian children in contract schools.....	22	128	Granting of concessions on reservoir sites, canal reserves, flowage areas, and other withdrawn and acquired lands in connection with Indian irrigation projects and the leasing of such lands for agricultural, grazing, and other purposes.....
43	Administration of educational loans, grants and other assistance for higher education.....	32	129	Pueblo Indian lands benefited by irrigation and drainage works of Middle Rio Grande conservancy district, New Mexico.....
44	Enrollment of Indians in public schools.....	33	130	Operation and maintenance charges.....
49	Administration of a program of vocational training for adult Indians.....	34	131	Electric power system, Flathead Indian irrigation project, Montana.....
52	Reallotment of lands to unallotted Indian children.....	125	132	Electric power system, Colorado River irrigation project, Arizona.....
54	Enrollment of Indians of the Cabazon, Augustine, and Torres-Martinez Bands of Mission Indians in California.....	43	133	Electric power system, San Carlos irrigation project, Arizona.....
55	Enrollment appeals.....	42	141	Partial payment construction charges on Indian irrigation projects.....
56	Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.....	44	144	Reimbursement of construction costs, Lummi Indian diking project, Washington.....
61	General forest regulations.....	141	147	Reimbursement of construction costs, San Carlos Indian irrigation project, Arizona.....
62	Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.....	143	148	Construction assessments, Crow Indian irrigation project.....
63	Sale of forest products, Red Lake Indian Reservation, Minn.....	144	149	Reimbursement of construction costs, Fort Hall Unit, Fort Hall Indian irrigation project, Idaho.....
64	Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservations.....	142	150	Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington.....
71	General grazing regulations.....	151	151	Inclusions of liens in all patents and instruments executed.....
72	Navajo grazing regulations.....	152	154	Sale of irrigable lands, special water contract requirements.....
73	Grazing, Pine Ridge Aerial Gun-nery Range.....	153	161	Law and order on Indian reser-vations.....
81	Determination of heirs and ap-proval of wills, except as to members of the Five Civilized Tribes and Osage Indians.....	15	170	Allotment of lands on the Caba-zon, and Augustine Indian Res-ervations, Riverside County, California.....
82	Determination of heirs and pro-bate of the estates of deceased Indians of the Five Civilized Tribes.....	16	171	Leasing and permitting.....
83	Actions on wills of Osage Indians.....	17	180	Leasing of Osage reservation lands for oil and gas mining.....
88	Commitment to St. Elizabeths Hospital.....	253	183	Leasing of restricted lands of mem-bers of Five Civilized Tribes, Oklahoma, for mining.....
91	Blackfoot irrigation project, Montana.....	191	186	Leasing of tribal lands for mining.....
94	Crow irrigation project, Montana.....	193	189	Leasing of certain restricted al-lotted Indian lands for mining.....
95	Colville irrigation project, Wash-ington.....	192	192	Leasing of certain lands in Wind River Indian Reservation, Wyo., for oil and gas mining.....
97	Flathead irrigation project, Montana.....	194	195	Leasing of lands in Crow Indian Reservation, Mont., for mining.....
100	Flathead, Mission, and Jocko Val-ley irrigation districts, Montana.....	195	201	Lead and zinc mining operations and leases, Quapaw Agency.....
103	Fort Belknap irrigation project, Montana.....	196		
106	Fort Hall irrigation project, Idaho.....	197		
110	Fort Peck Indian irrigation project, Montana.....	198		
121	Utah irrigation project, Utah.....	199		
124	Wapato irrigation project, Wash-ington.....	200		
127	Wind River irrigation project, Wyoming.....	201		

10513

## RULES AND REGULATIONS

Former Part No.	New Part No.	SUBCHAPTERS F-H—TRIBAL GOVERNMENT AND ENTERPRISES	Part
204		Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas.	126
221	175	Indian money accounts.	127
222	104	Deposit and expenditure of individual funds of members of the Osage Tribe of Indians who do not have certificates of competency.	128
223	108	Judgment and payments in lieu of allotment funds.	129
224	109	Annuity and other per capita payments.	
227	101	Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.	
230	107	Deposit of Indian funds in banks.	
233	105	Regulations for pro rata shares of tribal funds.	
241	102	Issuance of patents in fee, certificates of competency, sale of certain Indian lands, and reinvestment of proceeds.	
242	121	Osage roll, certificates of competency, and Osage lands:	
	123	Subpart A.	
	127	Subpart B.	
243	122	Determination of competency; Crow Indians.	
262	21	Arrangement with States, Territories, or other agencies for relief of distress and social welfare of Indians.	
256	161	Rights-of-way over Indian lands.	
261	162	Roads of the Bureau of Indian Affairs.	
276	251	Licensed Indian traders.	
227	252	Traders on Navajo, Zuni, and Hopi Reservations.	
281	163	Establishment of roadless and wild areas on Indian reservations.	
291	89	Commercial fishing on Red Lake Indian Reservation.	
296	3	List of forms.	
		<b>SUBCHAPTER A—PROCEDURES; PRACTICE</b>	
		<b>SUBCHAPTER A—PROCEDURES; PRACTICE</b>	
Part			
1		Rules of the Bureau of Indian Affairs. [Reserved.]	
2		Appeals. [Reserved.]	
3		List of forms.	
		<b>SUBCHAPTERS B-E—FEDERAL SERVICES; INDIVIDUAL INDIANS</b>	
		<b>SUBCHAPTER B—LAW AND ORDER</b>	
11		Law and order on Indian reservations.	
		<b>SUBCHAPTER C—PROBATE</b>	
15		Determination of heirs and approval of wills, except as to members of the Five Civilized Tribes and Osage Indians.	
16		Determination of heirs and probate of the estate of deceased Indians of the Five Civilized Tribes.	
17		Actions on wills of Osage Indians.	
		<b>SUBCHAPTER D—SOCIAL WELFARE</b>	
21		Arrangement with States, Territories or other agencies for relief of distress and social welfare of Indians.	
22		Care of Indian children in contract schools.	
		<b>SUBCHAPTER E—EDUCATION</b>	
31		Federal schools for Indians.	
32		Administration of educational loans, grants and other assistance for higher education.	
33		Enrollment of Indians in public schools.	
34		Administration of a program of vocational training for adult Indians.	
		<b>SUBCHAPTERS F-H—TRIBAL GOVERNMENT AND ENTERPRISES</b>	
		<b>SUBCHAPTER F—ENROLLMENT</b>	
Part			
41		Membership and enrollment of Indians. [Reserved.]	
42		Enrollment appeals.	
43		Enrollment of Indians of the Cabazon, Augustine and Torres-Martinez Bands of Mission Indians in California.	
44		Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.	
		<b>SUBCHAPTER G—TRIBAL GOVERNMENT</b>	
51		Indian organizations exclusive of the Indian Reorganization Act. [Reserved.]	
52		Tribes organized under sec. 16 of the Indian Reorganization Act. [Reserved.]	
53		Alaskan native groups organized under sec. 16 of the Indian Reorganization Act, and the Alaskan Act, as amended. [Reserved.]	
54		Tribes organized under the Oklahoma Indian Welfare Act. [Reserved.]	
71		Recognition of attorneys and agents to represent claimants.	
72		Attorney contracts with Indian tribes.	
73		Regulations governing the election of officers of the Osage Tribe.	
		<b>SUBCHAPTER H—ECONOMIC ENTERPRISES</b>	
81		Indian business corporations under sec. 17 of the Indian Reorganization Act. [Reserved.]	
82		Alaskan native business corporations organized under sec. 17 of the Indian Reorganization Act or the Alaska Act. [Reserved.]	
83		Indian Business Corporations under the Oklahoma Indian Welfare Act. [Reserved.]	
89		Commercial fishing on Red Lake Indian Reservations.	
90		Reindeer in Alaska.	
		<b>SUBCHAPTER I—CREDIT ACTIVITIES</b>	
		<b>SUBCHAPTER I—CREDIT ACTIVITIES</b>	
91		General credit to Indians.	
92		Revolving cattle pool.	
93		Klamath tribal loan fund.	
		<b>SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS</b>	
		<b>SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS</b>	
101		Annuity and other per capita payments.	
102		Regulations for pro rata shares of tribal funds.	
104		Indian money accounts.	
105		Deposit of Indian funds in banks.	
107		Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.	
108		Deposit and expenditure of individual funds of members of the Osage Tribe of Indians who do not have Certificates of Competency.	
109		Judgment funds, Shoshone Tribe of the Wind River Reservation, Wyoming.	
111		Service charges against Indians. [Reserved.]	
		<b>SUBCHAPTERS K-O—LANDS; SURFACE ESTATES AND RESOURCES</b>	
		<b>SUBCHAPTER K—PATENTS, ALLOTMENTS AND SALES</b>	
121		Issuance of Patents in Fee, Certificates of Competency, sale of certain Indian lands, and reinvestment of proceeds.	
122		Determination of competency: Crow Indians.	
123		Osage Roll, Certificates of Competency.	
125		Reallotment of lands to unallotted Indian children.	
		<b>SUBCHAPTER L—LEASING AND PERMITTING</b>	
131		Leasing and permitting.	
132		Preservation of antiquities.	
		<b>SUBCHAPTER M—FORESTRY</b>	
141		General forest regulations.	
142		Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservations.	
143		Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.	
144		Sale of forest products, Red Lake Indian Reservation, Minn.	
		<b>SUBCHAPTER N—GRAZING</b>	
151		General grazing regulations.	
152		Navajo grazing regulations.	
153		Grazing, Pine Ridge Aerial Gunnery Range.	
		<b>SUBCHAPTER O—RIGHTS-OF-WAY—ROADS</b>	
161		Rights-of-way over Indian lands.	
162		Roads of the Bureau of Indian Affairs.	
163		Establishment of roadless and wild areas on Indian Reservations.	
		<b>SUBCHAPTERS P-Q—LANDS; SUBSURFACE ESTATES AND RESOURCES</b>	
		<b>SUBCHAPTER P—MINING</b>	
171		Leasing of tribal lands for mining.	
172		Leasing of allotted lands for mining.	
173		Leasing of lands in Crow Indian Reservation, Mont., for mining.	
174		Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma for mining.	
175		Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas.	
176		Lead and zinc mining operations and leases, Quapaw Agency.	
		<b>SUBCHAPTER Q—OIL AND GAS</b>	
181		Oil and gas leases and operations on tribal lands. [Reserved.]	
182		Oil and gas leases and operations on allotted lands. [Reserved.]	
183		Leasing of Osage Reservation lands for oil and gas mining.	
184		Leasing of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining.	
		<b>SUBCHAPTERS R-U—WATER AND POWER RESOURCES</b>	
		<b>SUBCHAPTER R—IRRIGATION PROJECTS</b>	
191		Blackfeet irrigation project, Montana.	
192		Colville irrigation project, Washington.	
193		Crow irrigation project, Montana.	
194		Flathead irrigation project, Montana.	
195		Flathead, Mission, and Jocko Valley Irrigation districts, Montana.	
196		Fort Belknap irrigation project, Montana.	
197		Fort Hall irrigation project, Idaho.	
198		Fort Peck Indian irrigation project, Montana.	
199		Utah irrigation project, Utah.	
200		Wapato irrigation project, Washington.	
201		Wind River irrigation project, Wyoming.	
202		Pueblo Indian lands benefited by irrigation and drainage works of Middle Rio Grande Conservancy District, New Mexico.	

Part 203 Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects.

SUBCHAPTER 5—CONSTRUCTION

211 Partial payment construction charges on Indian irrigation projects.

212 Construction assessments, Crow Indian irrigation project.

213 Fort Hall Indian irrigation project, Idaho.

214 Reimbursement of construction costs, Lummi Indian diking project, Washington.

215 Irrigation project, Arizona.

216 Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington.

SUBCHAPTER 7—OPERATION AND MAINTENANCE

221 Operation and maintenance charges.

SUBCHAPTER 9—ELECTRIC POWER SYSTEM

231 Colorado River irrigation project, Arizona.

232 Flathead Indian irrigation project, Montana.

233 San Carlos irrigation project, Arizona.

SUBCHAPTER V [RESERVED]

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

251 Licensed Indian traders.

252 Traders on Navajo, Zuni and Hopi Reservations.

253 Commitment to St. Elizabeths Hospital.

254 Operation of the U. S. M. S. "North Star" (between Seattle, Wash., and stations of the Bureau of Indian Affairs and other Government agencies, Alaska).

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Subchapter A—Procedures; Practice

Subchapter A—Procedures; Practice

PART 1—RULES OF THE BUREAU OF INDIAN AFFAIRS [RESERVED]

PART 2—APPEALS [RESERVED]

PART 3—LIST OF FORMS

§ 3.1 Availability of forms. Forms upon which applications and related documents may be filed and upon which rights and privileges may be granted may be inspected and procured at the Bureau of Indian Affairs, Washington 25, D. C., and at the office of any Area Director or Agency Superintendent. (R. S. 161; 5 U. S. C. 22)

Subchapters B—E—Federal Services; Individual Indians

Subchapter B—Law and Order

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

APPLICATION; JURISDICTION

Sec. 11.1 Application of regulations.

11.2 Jurisdiction.

COURTS OF INDIAN OFFENSES

11.2CA Jurisdiction.

11.3 Judges.

11.3CA Judges.

11.4 Removal of judges.

11.5 Court procedure.

11.5CA Court proceedings.

11.6 Appellate proceedings.

11.6C Appellate proceedings.

11.6CA Appellate proceedings.

Sec. 11.7

11.7C

11.8

11.8CA

11.9

11.9CA

11.10

11.11

11.12

11.13

11.14

11.15

11.16

11.17

11.18

11.19

11.20

11.20C

11.21

11.22

11.22C

11.22CA

11.23

11.24

11.24C

11.24CA

11.25

11.25CA

11.26

11.26C

11.27

11.28

11.28CA

11.29

11.29C

11.30

11.30CA

11.31

11.31C

11.31CA

11.32

11.32C

11.33

11.33CA

11.34

11.34C

11.35

11.36

11.36C

11.37

11.37CA

11.38

11.39

11.40

11.41

11.42

11.43

11.44

11.45

11.46

11.47

11.48

11.49

11.49CA

11.50

11.50C

11.51

11.52

11.52CA

11.53

11.53CA

11.54

11.55

11.56

11.57

Juries.

Juries.

Witnesses.

Witnesses.

Professional attorneys.

Professional attorneys.

Clerks.

Records.

Copies of laws.

Complaints.

Warrants to apprehend.

Arrests.

Search warrants.

Commitments.

Ball or bond.

Definition of signature.

Definition of tribal council.

Definition of tribal council.

Cooperation by Federal employees.

CIVIL ACTIONS

Jurisdiction.

Jurisdiction.

Jurisdiction.

Law applicable in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Costs in civil actions.

Costs in civil actions.

Payment of judgments from individual Indian moneys.

Payment of judgments from individual Indian moneys.

DOMESTIC RELATIONS

Recording of marriages and divorces.

Tribal custom marriage and divorce.

Marriages, divorces, and adoptions.

Tribal custom adoption.

Adoption.

Determination of paternity and support.

Determination of paternity and support.

Determination of heirs.

Determination of heirs.

Determination of heirs.

Approval of wills.

Approval of wills.

SENTENCES

Nature of sentences.

Nature of sentences.

Probation.

Probation.

Parole.

Juvenile delinquency.

Juvenile delinquency.

Disposition of fines.

Deposit and disposition of fines.

CODE OF INDIAN TRIBAL OFFENSES

Assault.

Assault and battery.

Carrying concealed weapons.

Abduction.

Theft.

Embezzlement.

Fraud.

Forgery.

Misbranding.

Receiving stolen property.

Extortion.

Disorderly conduct.

Disorderly conduct.

Reckless driving.

Reckless driving.

Malicious mischief.

Trespass.

Trespass.

Injury to public property.

Injury to public property.

Maintaining a public nuisance.

Liquor violations.

Cruelty to animals.

Game violations.

Sec. 11.58

11.59

11.60C

11.61

11.62

11.63

11.63C

11.63CA

11.64

11.64C

11.65

11.66

11.67

11.68

11.69

11.70

11.71

11.72

11.73

11.74

11.75C

11.75CA

11.76CA

11.76NE

11.77NE

11.78NE

11.79NE

11.80NE

11.81NE

11.82NE

11.83NE

11.84NE

11.85NE

11.86NE

11.87NE

THE INDIAN POLICE

11.301 Superintendent in command.

11.302 Police commissioners.

11.303 Police training.

11.304 Indian policemen.

11.305 Dismissal.

11.306 Return of equipment.

AUTHORITY: §§ 11.1 to 11.306 issued under R. S. 463; 25 U. S. C. 2. Interpret or apply sec. 1, 38 Stat. 586; 25 U. S. C. 200.

NOTE: The regulations in this part are applicable on Indian reservations subject to the provisions of § 11.1, and the following exceptions:

§§ 11.6, 11.7, 11.20, 11.22, 11.24, 11.26, 11.28, 11.29, 11.31, 11.32, 11.34, 11.36, 11.50, 11.63, and 11.64, not applicable to Crow Indians.

§§ 11.6C, 11.7C, 11.20C, 11.22C, 11.24C, 11.26C, 11.29C, 11.31C, 11.32C, 11.34C, 11.36C, 11.50C, 11.60C, 11.63C, 11.64C, and 11.75C, applicable only to Crow Indians.

§§ 11.76NE to 11.87NE, inclusive, applicable only to Navajo and Hopi Indians.

§§ 11.1, 11.2, 11.3, 11.5, 11.6, 11.6C, 11.7, 11.7C, 11.8, 11.9, 11.20C, 11.22, 11.22C, 11.24, 11.24C, 11.25, 11.26C, 11.28, 11.29, 11.29C, 11.30, 11.31, 11.31C, 11.32, 11.32C, 11.33, 11.34C, 11.36C, 11.37, 11.49, 11.50C, 11.52, 11.53, 11.57, 11.58, 11.60C, 11.63C, 11.63C, 11.64C, 11.74, 11.75C, and 11.76NE—11.87NE, inclusive, are not applicable to Coeur d'Alene Indians.

All sections which follow bearing the symbol "CA" at the end of the number are applicable only to the Coeur d'Alene Indians.

All sections in Part 11 not heretofore mentioned in this note are applicable to the Coeur d'Alene Indians.

shall submit the facts in the case to the Area Director who is authorized to allow or deny an exception.

§ 104.7 *Payments by other Federal agencies.* Superintendents are authorized to accept and administer moneys that may be received from the Veterans Administration or other government agency pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U. S. C. 14), for the benefit of adult Indians under legal disability or minors for whom no legal guardian or fiduciary has been appointed.

§ 104.8 *Purchase orders.* Purchase orders shall not be issued except upon the request of the individual and only to meet emergencies.

§ 104.9 *Restrictions.* Funds obligated under assignments made pursuant to a delegation of authority shall be disbursed only in accordance with the terms thereof. Funds derived from the sale of capital assets which by agreement approved prior to such sale by the Commissioner or his authorized representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the superintendent or subject to deductions specifically authorized or directed by acts of Congress, shall be disbursed only in accordance with the agreements (including any subsequently approved modifications thereof) or acts of Congress.

§ 104.10 *Funds of deceased Indians.* Funds of a deceased Indian may be disbursed (a) for support of dependent members of the families of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs; (b) for the payment of obligations previously authorized; (c) for the last illness and funeral expenses of the decedent; and (d) for probate fees and claims allowed pursuant to Parts 15 and 16 of this chapter.

§ 104.11 *Funds of deceased Indians of the Five Civilized Tribes.* Funds of a deceased Indian of the Five Civilized Tribes may be disbursed to pay ad valorem and personal property taxes, Federal and State estate and income taxes, obligations approved by the superintendent prior to death of decedent, expenses of last sickness and burial and claims found to be just and reasonable which are not barred by the statute of limitations, and costs of determining heirs to restricted property by the state courts.

§ 104.12 *Supervision; appeal.* Exercise of authority by superintendents under this part shall be subject to the supervision and control of the Commissioner and his designated representatives. Appeal from an action taken by the superintendent may be taken within 30 days to the Area Director and thence to the Commissioner within a like period.

Sec.	Application.
105.3	Qualification.
105.4	Security.
105.5	Corporate sureties.
105.6	Individual sureties.
105.7	Collateral security.
105.8	Deposits.
105.9	Payment of interest.
105.10	Reports; statement of disbursing account (Form 5-308).
105.11	Statement of deposits (Form 5-302).
105.12	Report of condition.
105.13	Checks.
105.14	Service charges prohibited.
105.15	Statements required.
105.16	Disqualification.
105.17	

**AUTHORITY:** §§ 105.1 to 105.17 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 1, 38 Stat. 855, as amended; 25 U. S. C. 372.

§ 105.1 *Authority for deposit.* Indian moneys, individual or tribal, may be deposited in banks under authority of the acts of June 25, 1910, as amended (48 Stat. 640; 25 U. S. C. 372); May 25, 1918 (40 Stat. 591; 25 U. S. C. 162); and February 27, 1925 (43 Stat. 1009).

§ 105.2 *Banks defined.* For the purpose of the regulations in this part, the word "banks" shall include State and national banks, and savings banks and trust companies doing a banking business.

§ 105.3 *Application.* Any bank desiring to qualify for deposits of Indian funds shall transmit to the Commissioner of Indian Affairs (or to the proper superintendent if a call for bids has been issued) an application accompanied by a report in the form prescribed by the Comptroller of the Currency (or the State Banking Department) showing fully the condition of the bank on a day not more than one month prior to the date of such application. In making application, banks must state the maximum amount desired and the minimum that will be accepted, the rate of interest that will be paid, and the type of security that will be furnished. The following statement must be incorporated in the letter of application: This bank agrees that if designated a depository, it will comply with the regulations of the Department of the Interior governing the deposit of Indian funds in banks and with such instructions as may from time to time be issued by the Commissioner of Indian Affairs.

§ 105.4 *Qualification.* (a) In the selection of a bank to serve as a depository, the following points will be given consideration:

- (1) Location with respect to the nearest agency.
- (2) Financial condition.
- (3) Rate of interest and security offered.

(b) No bank will be considered for designation unless it has been in successful operation for 1 year and has accumulated a surplus equal to 10 percent of the capital stock. This will not apply to banks offering United States bonds or notes as security.

§ 105.5 *Security.* Under acts of Congress, deposits of Indian funds are required to be secured by surety bonds (corporate or individual) or by bonds or notes of the United States. The follow-

ing securities are classed as United States obligations: Panama Canal loan bonds, Treasury bonds, and Treasury notes. Bonds on which surety companies or individuals appear as sureties must be executed in triplicate on forms<sup>1</sup> prescribed for the purpose, and each copy must be accompanied by a transcript of a resolution by the board of directors of the bank, authorizing the proper officers to execute the instrument. The bonds must be executed for a stipulated term of not less than 180 days. Such bonds, however, are continuing in nature and will remain in force beyond the stipulated period until canceled in accordance with the provisions contained therein. Whenever a bank receives notice from any source that its surety bond is to be canceled, it shall immediately arrange to submit substitute security which must reach the Bureau of Indian Affairs and be approved 10 days before the effective date of the cancellation notice. Any bank failing to furnish other security in accordance with the foregoing shall relinquish its deposit with accrued interest not later than the date of the tenth day preceding the effective date of the cancellation notice.

§ 105.6 *Corporate sureties.* Only those companies holding certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties.

§ 105.7 *Individual sureties.* Each person appearing as surety on a personal surety bond must qualify in an amount equal to twice the penalty of the bond. At least four individuals must act as sureties on each bond. Officers and directors of a bank furnishing a personal surety bond will not be accepted as sureties, nor will any person who is a bonded officer of the United States or a married woman.

§ 105.8 *Collateral security.* Banks pledging United States bonds or notes as security shall execute a deposit agreement on forms prescribed by the Commissioner of Indian Affairs and shall furnish a resolution of authority by the board of directors, authorizing the sale, assignment, or transfer of the collateral. The bonds or notes shall be either deposited with the Commissioner of Indian Affairs who will place them with the Treasurer of the United States for safekeeping, or sent direct to the Division of Securities, Office of the United States Treasurer, Treasury Department, to be held subject to the order of the Commissioner of Indian Affairs. In either case, receipt for the collateral will issue from the Bureau of Indian Affairs. Registered bonds must be assigned in blank before shipment, and a resolution by board of directors, authorizing the assignment, must be filed with the Division of Loans and Currency, Treasury Department, on Treasury Department Form PD 1009 or Form PD 1010. All correspondence relating to the deposit, withdrawal, substitution, or exchange of securities shall be addressed to the Commissioner of Indian Affairs.

<sup>1</sup>Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

PART 105—DEPOSIT OF INDIAN FUNDS IN BANKS

Sec.	
105.1	Authority for deposit.
105.2	Banks defined.

§ 105.9 *Deposits.* Each bank that has been designated as a depository and has filed proper bond will be given a deposit in an amount equal to 95 percent of the penalty of the bond, unless it has been selected to carry an active checking account in which case the deposit will be limited to 90 percent of the security. Upon receipt of the deposit from the disbursing agent, the bank shall immediately credit it to an account which must be opened under his name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the depository's surety bond or its deposit agreement. Time certificates of deposit, running for definite periods during which deposits are not subject to check, are not acceptable. The terms of any such instruments issued contrary to the regulation in this part will be considered void and of no effect.

§ 105.10 *Payment of interest.* Except as to depositories for funds of the Osage and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest thereon at the agreed rate to the account of the disbursing agent at the close of June 30, and December 31 of each year. Banks carrying deposits in the names of the disbursing agents of the Five Civilized Tribes and Osage Agencies shall credit interest to their accounts at the close of April 30 and October 31 of each year. Within 5 days after the close of the interest period, the amount credited to the account of a disbursing agent shall be remitted to him by draft unless he has previously arranged to withdraw it by check. Any bank delinquent in the payment of interest shall be liable for interest on the overdue amount. In the event that a deposit or any part thereof is withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

§ 105.11 *Reports; statement of disbursing account (Form 5-308).* Each depository for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5-308 (and Form 5-308a if extra space is needed). Paid checks will be listed thereon in numerical order showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within 10 days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original statement and paid checks directly to the General Accounting Office, Audit Division, Washington, D. C. The triplicate copy of the statement will be retained in the bank's files. In no case will the depository send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Bureau. Statements will be required of both time and checking depositories so long as any balance of In-

dian moneys remains on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month. Depositories should apply to disbursing officers for a supply of the necessary forms.

§ 105.12 *Statement of deposits (Form 5-302).* Each bank having a deposit not actively checked against shall submit semiannually, within 5 days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5-302. After comparing the statement with his records, the officer will forward the original to the Bureau of Indian Affairs if it is found correct. Banks carrying active checking accounts shall submit the statements within 5 days after the close of each month. Depositories should apply to the Bureau for Forms 5-302.

§ 105.13 *Report of condition.* When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depository. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than 1 month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the reports.

§ 105.14 *Checks.* Each bank designated as a depository shall furnish the disbursing agent, without charge, an adequate supply of blank checks. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

§ 105.15 *Service charges prohibited.* No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

§ 105.16 *Statements required.* Depositories shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

§ 105.17 *Disqualification.* Any bank which shall fail to comply with the regulations in this part shall be liable to be disqualified.

PART 107—CREATION OF TRUSTS FOR RESTRICTED PROPERTY OF INDIANS, FIVE CIVILIZED TRIBES, OKLAHOMA

Sec.	
107.1	Application for trust.
107.2	Obligations of trust company.
107.3	Secretarial approval discretionary.
107.4	Contents trust agreement.
107.5	Eligibility of appraisers.
107.6	Aiding Indians in formulating trust agreements.
107.7	Trust duration.
107.8	Trustee's security.
107.9	Trustee's compensation.
107.10	Necessary forms.

Sec.  
107.11 Limit restricted property in trust.  
107.12 Amendments.

AUTHORITY: §§ 107.1 to 107.12 issued under sec. 7, 47 Stat. 778.

§ 107.1 *Application for trust.* Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall designate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the field clerk or, in the office of the superintendent and duly attested by the field clerk or some other Government employee. The information required by the form of application and such other information as may be requested concerning the Indian and his affairs shall be carefully considered by the superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

§ 107.2 *Obligations of trust company.* The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the State banking department), showing fully the conditions of said trust company or banking institutions on a day not more than 1 month prior to the date of the application for the creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular payroll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which the regulations in this part apply.

§ 107.3 *Secretarial approval discretionary.* No such trust agreement will be favorably considered unless in the judgment of the Secretary of the Interior the trustee therein named is deemed by him to be on a sound financial basis and otherwise sufficiently qualified to justify approval of such trust.

§ 107.4 *Contents trust agreement.* In addition to the subject matter of the trust, its objects and beneficiaries, duties of trustee, etc., the form of trust agreement shall contain provisions to the following general effect: