

CODE
OF FEDERAL
REGULATIONS



TITLE 25

Revised as of January 1, 1958

CONTAINING A CODIFICATION OF DOCUMENTS OF GENERAL APPLICABILITY AND
FUTURE EFFECT AS OF JANUARY 1, 1958.

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Title 25—Indians

bursed only in accordance with the terms thereof. Funds derived from the sale of capital assets which have been 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 §§ 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.

Part 105—Deposit of Indian Funds in Banks

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AUTHORITY §§ 105.1 to 105.17 issued under
R. S. 161, 5 U. S. C. 22. "Interpret or apply
Act 1, 30 Stat. 106, as amended, 25 U. S. C.
572."

SOURCE: §§ 105.1 to 105.17 appear at 22 F. R. 10551, Dec. 24, 1957.

§ 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. 636, 40 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:

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(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 following 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 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 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 safe-keeping, 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.

§ 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.

Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

§ 105.10 Payment of interest. Except as to depositaries for funds of the Osage, and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest accrued 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 in

officers takes place on a new bond (disbursing agent's) becomes effective before the end of a month. Depositaries 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. Depositaries 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 depositary. 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 depositary 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. Depositaries 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

- 107.1 Application for trust.
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Authority: §§ 107.1 to 107.12 issued under Sec. 7, 44 Stat. 778.

Source: §§ 107.1 to 107.12 appear at 22, F. R. 10552, Dec. 24, 1957.

§ 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:

(a) That such of the current income from the corpus of the estate as may be payable to the Indians of the Five Civilized Tribes of one-half or more Indian blood shall be remitted by the trustee to the Secretary of the Interior or such other official as he may designate for appropriate disposition.

(b) That the trusts declared and each of them shall be irrevocable except with the approval of the Secretary of the Interior, but, subject to his approval, the beneficiaries named in any approved trust may be redesignated by the maker without in any manner otherwise impairing or altering any of the provisions thereof, particularly the duration of the trust or the compensation to be paid to the trustee.

(c) That neither the corpus of the trust estate nor the income derived therefrom is, during the restriction period provided by law, subject to alienation or incumbrance, or to the satisfac-