### RULES AND REGULATIONS

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§ 102.4 Interest in pro-rata shares not vested rights unless application approved. On November 6, 1908, the Secretary of the Interior, in effect, that the interest of an Indian in a pro-rata share of a tribal fund does not vest in the Indian an inheritable property until after his application has been approved by the Secretary and an order signed by him segregating it from the tribal fund. Applications for shares of funds under this act may be made at any time, but in view of the Secretary’s policy of deciding such applications as soon as possible, the applications should be forwarded to the Bureau by the superintendent as soon as they are completed and filed with him. Applications from those who are blind, decrepit, etc., must be made special and forwarded to the Bureau of Indian Affairs, Washington, D. C., as soon as possible.

§ 102.5 Basis of distribution; pro-rata shares. In estimating the pro-rata share of an individual, the last annuity pay-roll prior to the death of the decedent shall be used for the purpose of distribution. Where no payment has been made within 1 year, no interest shall be added to the account of the decedent. In computing the share of an individual, the amount of funds made available to him during the last year that he resided in the tribe shall be used. Each individual shall be entitled to a share of the funds as of the date of his death.

§ 102.6 Disposition of pro-rata share in event of applicant’s death. In the event of the death of an applicant after approval of his application by the Secretary of the Interior, the share to which he was entitled shall be paid to his surviving legal representative. If no such representative can be found, the share shall be held in trust for the minor until such time as a legal representative can be found. If no representative can be found, the share shall be paid to the state in which the minor resides.

Cross Reference: For regulations pertaining to the determination of heirs and approval of claims, see Part 15 and §§ 11.39 to 11.52 of this chapter.

§ 102.7 Pro-rata shares of minors. The shares of minors will not be withdrawn except when necessary for their own benefit. The application should be signed by the parent or other legal guardian and transmitted to the Bureau by the superintendent with his recommendation as in other cases and a full explanation of the circumstances which justify the withdrawal. Such shares will be deposited to the credit of the minors subject to expenditure under the individual Indian money regulations. The term “minor,” as used in this section, shall be interpreted in conformity with the State law.

Cross Reference: For individual Indian money regulations, see Part 104 of this chapter.

PART 104—INDIAN MONEY ACCOUNTS

§ 104.1 Definitions. 104.2 Osage Agency. 104.3 Individual accounts. 104.4 Minors.
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 transferred to the Indian Administration, or other government agency pursuant to the act of February 25, 1933 (43 Stat. 907; 25 U.S.C. 149), 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 of Indian Affairs or his representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the superintendent or subject to dedications specified or restricted 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 family of decedent in such amounts deemed necessary to avoid hardship and consistent with the values 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 all claims of the estate, and Federal and State estate and income taxes, obligations approved by the superintendent prior to death of decedent, expenses of last illness and burial and claims found and proven 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 supervision 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

Sec. 105.1 Authority for deposit.
105.2 Banks defined.

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§ 105.1 Authority for deposit. Indian moneys, individual or tribal, may be deposited in bonds and to a minority of the acts of June 25, 1910, as amended (48 Stat. 61; 25 U.S.C. 372); May 25, 1918 (48 Stat. 591; 25 U.S.C. 162); and February 7, 1925 (49 Stat. 1099).

§ 105.2 Banks defined. For the purpose of the regulations in this part, the term "bank" shall mean any national, state or foreign bank, trust company, or savings bank.

§ 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 head of a 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 desired deposit ceiling 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 it is 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.

§ 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 security bonds are classed as United States obligations: Panama Canal, loan bonds, Treasury bonds, and Treasury notes. Bonds on which surety companies or individuals appear as surety must be executed in triplicate on forms prescribed for the purpose, and each copy must be accompanied by a transcript of a resolution of 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 provisions of the regulations in this part 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 execute in the 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 in the form 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 Leases and Curreny, Treasury Department, in the Treasury Department Form PD 1008 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.

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