CODE
OF FEDERAL
REGULATIONS

TITLE 25
Revised as of January 1, 1969

CONTAINING A CODIFICATION OF DOCUMENTS OF GENERAL APPLICABILITY AND
FUTURE EFFECT AS OF JANUARY 1, 1969
With Ancillaries

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be deposited to the credit of the estate
pursuant to a determination thereof.

Cross Reference: For regulations per-

mitting the determinations of heirs and
other persons, see Title 15 and if 110-2

110-12 of this chapter.

§ 102.7 Pro-rate shares of minors.

The shares of minors will not be with-
drawn except when necessary for their
education benefit. The application should
be made by the parent or guardian and
transmitted to the Bureau by the superin-
tendent of the school as a part of the
daily report. Such shares will be depos-
ited in 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—INDIVIDUAL INDIAN
MONEY ACCOUNTS

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Authority: The provisions of this Part 104
issue under 31 C.F.R. 161, 161, as amended,
2, 9.

Source: The provisions of this Part 104
appear at 25 F.R. 9422, Oct. 15, 1958, unless
otherwise noted.

§ 104.1 Definitions.

As used in this part:
(a) The term "individual Indian
money accounts" means those accounts
under the control of the Secretary of the
Interior or his authorized representative
belonging to individuals.
(b) The term "minor" means an in-
dividual who has not reached his ma-

turity as defined by the laws of the State of
his domicile.

§ 104.2 Osage Agency.

The provisions of this Part do not apply
to funds deposited under Osage of the
United States which is subject to the provisions of Part
104 of this chapter.

§ 104.3 Individual accounts.

Except as otherwise provided in this
part, funds shall be deposited in the
credit of the account holder. Such shares
shall be deposited in the credit of the
minor subject to expenditure subject to the
individual Indian money regulations. The
term "minor," as used in this section, shall be
interpreted in conformity with the State
law.

§ 104.4 Minors.

Funds of a minor may be disbursed in
such amounts deemed necessary in the
best interests of the minor for the
minor's support, health, education, or
welfare to parents, legal guardians, fidu-
ciaries, or persons having the control
and custody of the minor under plans
approved by the Secretary or his
authorized representative, or to the minor,
directly, upon such conditions as the
Secretary or his authorized representative
may prescribe.

§ 104.5 Adults under legal disability.

The funds of an adult who is non
compos mentis or under other legal
disability may be disbursed for his benefit
for such purposes deemed to be for his own
interest and welfare, or the funds may be
transferred to a legal guardian or curat-
tor under such conditions as the Secre-
tary or his authorized representative may
prescribe.

§ 104.6 Voluntary deposits.

As a general rule, voluntary deposits
shall not be accepted. Indians who re-
quire banking service shall be encouraged
to utilize commercial facilities. If in
any case it is determined that an excep-
tion to this prohibition should be made
to avoid a substantial hardship, the facts
in the case shall be considered by the
Secretary or his authorized representa-
tive and an exception will be allowed or
denied.

§ 104.7 Payments by other Federal
agencies.

Moneys received from the Veterans
Administration or other Government
agencies, pursuant to the act of February
4, 1933 (47 Stat. 907; 25 U.S.C. 14), may
be accepted and administered for the
benefit of adult Indians under legal dis-
ability or minors for whom no legal guar-
dian or fiduciary has been appointed.

§ 104.8 Purchase orders.

Purchase orders may be issued only in
emergencies upon the request of the
account holder. The Secretary or his
authorized representative may act in
emergencies on behalf of the account
holder who is unable to make a request
because of illness or incapacity or, to
meet expenses of last illness or funeral.

§ 104.9 Restrictions.

Funds of individuals may be applied
by the Secretary or his authorized represen-
tative against delinquent claims of
indebtedness to the United States or any
of its agencies or to the tribe of which
the individual is a member, unless such
payments are prohibited by acts of Con-
gress, and against money judgments
rendered by courts of Indian offenses or
under any tribal law and order code.

Funds derived from the sale of capital
assets which by agreement approved
prior to sale by the Secretary or his
authorized representative are to be ex-

dended for specific purposes, and funds
obligated under contractual arrange-
ments approved in advance by the Secre-
tary or his authorized representative or
subject to deductions specifically au-
thorized or directed by acts of Congress,
shall be disbursed only in accordance
with the agreements (including any sub-
sequently approved modifications there-
of) or acts of Congress. The funds of
an adult whom the Secretary or his au-
thorized representative finds to be in
need of assistance in managing his
affairs, even though his adult is non
compos mentis or under other legal
disability, may be disbursed to a legal
guardian or curator under such condi-
tions as the Secretary or his authorized
representative may prescribe.

§ 104.10 Funds of deceased Indians
other than the Five Civilized Tribes.

Funds of deceased Indians other than
those of the Five Civilized Tribes may be
disbursed (a) for the payment of obliga-
tions previously authorized, including
authorized expenses of last illness; (b)
for authorized funeral expenses; (c) for
surviving members of the family of the
deceased intended to avoid hardships
and consistent with the value of the
estate and the interest of the heirs; (d)
for necessary expenses in preparing the
estates for the collection of probate
proceedings; and (e) for estate fees and
claims allowed pursuant to Part 15 of
this chapter.

§ 104.11 Funds of deceased Indians
of the Five Civilized Tribes.

Funds of deceased Indians of the Five
Civilized Tribes may be disbursed to pay
ad valorem and personal property taxes,
Federal and State estate and inheritance
taxes, obligations approved by the Secre-
tary of his authorized representative
prior to death of the decedent, expenses
of last sickness and burial and claims
found to be just and reasonable which are
not barred by the statute of limitations,
courts of determining heirs to restitute
money to the State, and claims allowed
pursuant to Part 16 of this chapter.

§ 104.12 Assets of Members of the Acoma
Caliente Band of Mission Indians.

(a) The provisions of this section apply
to moneys other than property, except
real property, held by the United States
in trust for such Indians which may be
used, advanced, exchanged, deposited,
invested, and reins-

vested by the Director, Palm Springs
Office, in accordance with the Act of
October 17, 1938 (29 Stat. 914), (Public Law 59-397).

(b) The management and disposition of
real property is covered in other parts of
this chapter.
§ 104.13 Appeals.

Appeal from an action taken by a Superintendent or other officer in charge of an Indian agency or reservation may be taken within 30 days of notification of the action to the Area Director in charge of an area of the Bureau of Indian Affairs. An appeal from an action of a Area Director may be taken within 30 days to the Commissioner of Indian Affairs. An appeal from an action of the Commissioner may be taken within 30 days to the Secretary of the Interior.

(34 F.R. 10838, Nov. 15, 1968; Redesignated, 33 F.R. 10838, Nov. 15, 1968)

PART 105—DEPOSIT OF INDIAN FUNDS IN BANKS

Sec.
105.1 Authority for deposit.
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105.9 Deposits.
105.10 Payment of interest.

§ 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 funds 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 before the date of the 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 considered:
   (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 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 collateral 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.

§ 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 80 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 its name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the deposit's security bond or 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 deposits for funds of the Osage and Five Civilized Tribes Agency, 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 by the bank, or any amount 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...