

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

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be deposited to the credit of the estate pending formal determination thereof.

CROSS REFERENCE: For regulations pertaining to the determinations of heirs and the probate of wills, see Part 15 and § 11.30-11.42.C 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The shares of minors will not be withdrawn except when necessary for their own benefit.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 shared by the parent or 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—INDIVIDUAL INDIAN MONEY ACCOUNTS

- Sec. 104.1 Definitions.
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- 104.13 Appeals.

AUTHORITY: The provisions of this Part 104 issued under R.S. 161, R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 22, 485, 25 U.S.C. 2, 9.

SOURCE: The provisions of this Part 104 appear at 23 F.R. 7942, 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 individual who has not reached his ma-

jority 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 or expenditure of which is subject to the provisions of Part 108 of this subchapter.

§ 104.3 Individual accounts.

Except as otherwise provided in this part, adults shall have the right to withdraw funds from their accounts. Upon their application, or an application made in their behalf by the Secretary or his authorized representative, their funds shall be disbursed to them. All such disbursements will be made at such convenient times and places as the Secretary or his authorized representative may designate.

§ 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, fiduciaries, or to 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. The Secretary or his authorized representative will require modification of an approved plan whenever deemed in the best interest of the minor.

§ 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 best interest and welfare, or the funds may be disbursed to a legal guardian or curator under such conditions as the Secretary or his authorized representative may prescribe.

§ 104.6 Voluntary deposits.

As a general rule, voluntary deposits shall not be accepted. Indians who require banking service shall be encouraged to utilize commercial facilities. If in any case it is determined that an exception 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 representative and an exception will be allowed or denied.

§ 104.7 Payments by other Federal agencies.

Moneys 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), may be accepted and administered 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 may be issued only in emergencies upon the request of any account holder. The Secretary or his authorized representative may act in emergencies on behalf of an 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 representative 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 Congress, 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 such sale by the Secretary or his authorized representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the Secretary or his authorized representative 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. The funds of an adult whom the Secretary or his authorized representative finds to be in need of assistance in managing his affairs, even though such adult is not non compos mentis or under other legal disability, may be disbursed to the adult, within his best interest, under approved plans. Such finding and the basis for such finding shall be recorded and filed with the records of the account.

CROSS REFERENCE: For rules governing the payment of judgments from individual Indian money accounts, see § 11.26 of this chapter.

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

Funds of a deceased Indian other than those of the Five Civilized Tribes may be disbursed (a) for the payment of obligations previously authorized, including authorized expenses of last illness; (b) for authorized funeral expenses; (c) for support of dependent members of the family of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs; (d) for necessary expenses to conserve the estate pending the completion of probate proceedings; and (e) for probate fees and claims allowed pursuant to Part 15 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 Secretary of his authorized representative 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, costs of determining heirs to restricted property by the State courts, and claims allowed pursuant to Part 16 of this chapter.

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

(a) The provisions of this section apply to money or other property, except real property, held by the United States in trust for such Indians which may be used, advanced, expended, exchanged, deposited, disposed of, invested, and reinvested by the Director, Palm Springs Office, in accordance with the Act of October 17, 1963 (Public Law 90-597). The management or disposition of real property is covered in other parts of this chapter.

(b) Investments made by the Director, Palm Springs Office, under the Act of October 17, 1968, supra, shall be of such a nature as will afford reasonable protection of the assets of the individual Indian involved. The Director is authorized to enter into contracts for the management of the assets (except real property) of individual Indians. The consent of the individual Indian concerned must be obtained prior to the taking of actions affecting his assets, unless the

Director determines, under the provisions of section (e) of the Act, that consent is not required.

(c) The Director may, consistent with normal business practices, establish appropriate fees for reports he requires from guardians, conservators, or other fiduciaries appointed under State law for members of the Band.

[33 F.R. 16636, Nov. 15, 1968]

§ 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 office of the Bureau of Indian Affairs. An appeal from an action of an 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.

[23 F.R. 7942, Oct. 15, 1958. Redesignated, 33 F.R. 16636, Nov. 15, 1968]

PART 105—DEPOSIT OF INDIAN FUNDS IN BANKS

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105.17	Disqualification.

Authority: The provisions of this Part 105 issued under R.S. 161; 5 U.S.C. 22. Interpret or apply sec. 1, 36 Stat. 855, as amended; 25 U.S.C. 372.

Source: The provisions of this Part 105 appear at 22 F.R. 10551, Dec. 24, 1957, unless otherwise noted.

§ 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. 648; 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 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 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

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

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 its 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