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§ 102.4

What advantages will accrue to applicant by withdrawal of his or her share at this time?

§ 102.5

Has it been explained to the applicant and does he understand that if the application is approved the funds will be deposited to his credit as individual Indian money to be expended under the supervision of the superintendent?

§ 102.6

Make a specific recommendation for the approval or disapproval of the application.

Cross Reference. For individual Indian money regulations, see Part 104 of this chapter. For deposits of Indian funds in banks, see Part 106 of this chapter.

§ 102.1

Interest in pro rata shares not vested rights unless application approved.

On November 6, 1908, the Secretary of the Interior decided, 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 and by him certifying 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 decision such 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, deformed, etc., must be made special and forwarded to the Bureau of Indian Affairs, Washington, D.C., as soon as possible.

§ 102.2

Basis of distribution, pro rata shares.

In estimating the pro rata share of an individual, the last-annuity payroll prior to July 1 or January 1 of each year will be taken as a basis of distribution. Where no payment has been made within 1 year, the last census, if taken within the year, will be the basis. If no census has been taken or payment made within a year, the last available record, either census or annuity roll, will be used.

§ 102.3

Disposition of pro rata share in event of applicant’s death.

In the event of the death of an applicant prior to the approval of his application by the Secretary of the Interior, the share to which he would have been entitled, if living, will revert to the tribe. In case of the death of an applicant after approval of his application and the signing by the Secretary of the Interior of an order for the segregation of his share, but before payment is made, his share will descend to his legal heirs and should be deposited to the credit of the estate pending formal determination thereof.

Cross Reference. For regulations pertaining to the determinations of heir and approval of wills, see Part 15 and §§ 11.20 and 13.32 of this chapter.

§ 102.4

Pro rata share 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 guardian and transmitted to the Bureau by the superintendent with his recommendation as in other cases and a full statement 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

See

104.1 Definitions
104.2 Osage Agency
104.3 Individual accounts
104.4 Minors
104.5 Adults under legal disability
104.6 Voluntary deposits
104.7 Payments by other Federal agencies
104.8 Purchase orders
104.9 Restrictions
104.10 Funds of deceased Indians other than the Five Civilized Tribes
104.11 Funds of deceased Indians of the Five Civilized Tribes

Chapter I—Bureau of Indian Affairs

104.12 Assets of Members of the Apan Cuitere Band of Mission Indians
104.13 Appeals


Source: 23 FR 1942, Oct. 15, 1958, unless otherwise noted.

§ 101.1 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 majority as defined by the laws of the State of his domicile.

§ 101.2 Osage Agency.

The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 108 of this chapter.

§ 101.3 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 representatives may designate.

§ 101.4 Minors.

(a) Funds, other than a per capita share of judgment funds which exceed $100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor may be disbursed in such amounts deemed necessary in the best interest of the minor for the minor’s support, health, education, or welfare, to parents, legal guardians, fiduciaries, or to persons having the custody of the minor under plans approved by the Secretary, or the minor directly, upon such conditions as the Secretary may prescribe. The Secretary will require modification of an approved plan whenever deemed in the best interest of the minor.

(b) A per capita share of judgment funds which exceed $100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor shall be disbursed until the minor reaches 18 years of age. At that time, unless the minor is under legal disability, the minor shall be entitled to withdraw his judgment funds and accrued investment income as provided in § 104.3. If the minor is under legal disability upon reaching his majority, his judgment funds and accrued investment income thereon shall be handled pursuant to § 104.5.

[41 FR 48736, Nov. 5, 1976]

§ 101.4

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 other person under such conditions as the Secretary or his authorized representative may prescribe.

§ 101.6

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.

§ 101.7

Payments by other Federal agencies.

Moneys received from the Veterans Administration or other Government agencies pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U.S.C. 141), 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.
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§ 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 of 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 real property 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 agreement (including any subsequently approved modifications thereon) or acts of Congress. The funds of an individual whom the Secretary or his authorized representative finds to be in need of assistance in managing his affairs, even though such individual is not a noncompos 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 (d) for necessary expenses to conserve the estate pending the completion of probate proceedings; and (e) of the estate not distributed by reason of not being necessary to the payment of 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 except real property, held by the United States in trust for such Indians, which may be used, advanced, exchanged, deposited, disposed of, invested, and reinvested by the Director, Palm Springs Office, in accordance with the Act of October 17, 1968 (Public Law 90-374). 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 investment of any part of such assets (or any 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 (c) 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.

§ 104.12 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.

§ 105.4 Funds of deceased Indians of the Five Civilized Tribes. Funds of a deceased Indian of the Five Civilized Tribes may be disbursed except real property, held by the United States in trust for such Indians, which may be used, advanced, exchanged, deposited, disposed of, invested, and reinvested by the Director, Palm Springs Office, in accordance with the Act of October 17, 1968 (Public Law 90-374). 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 investment of any part of such assets (or any 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 (c) 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.

§ 105.13 Appeals. An 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 to the 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.

§ 105.14 Deposit of Indian Funds in Banks. 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 conditions 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 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.

§ 105.15 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 a year and has accumulated a surplus equal to 10 percent of the capital stock. This will not apply to banks that have United States bonds or notes of curity.

PART 105—DEPOSIT OF INDIAN FUNDS IN BANKS

Sec. 105.1 Authority for deposit.
105.2 Banks defined.
105.3 Application.
105.4 Qualification.
105.5 Security.
105.6 Corporate sureties.
105.7 Individual sureties.
105.8 Collateral security.
105.9 Deposits.
105.10 Payment of interest.
105.11 Reports; statement of disbursing account (Form 5 308).
105.12 Statement of deposits (Form 5 302).
105.14 Checks.
105.15 Servicemen charges prohibited.
105.16 Statements required.
105.17 Disqualification.


Source: 22 FR 1051, Dec. 24, 1957, unless otherwise noted.