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AUTHORITY: §§ 106.1 to 108.35 issued under R.S. 1911; 6 U.S.C. 22.

§ 108.1 Definitions. When used in the regulations in this part the following words or terms shall have the meaning shown by the following sentence:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Superintendent" means the superintendent of the Osage Agency.

(d) "Quarterly payment" means the payment of $1,000 or in excess of $1,000 which is made each fiscal quarter to or on behalf of an adult Indian, from the following sources:

1. The pro rata distribution of tribal mineral income and other tribal revenues.

2. The interest on segregated trust funds.

3. Surplus funds in addition to the income from the foregoing sources in the amount necessary to aggregate $1,000 when the income from those sources is less than $1,000 and the Indian has a balance of accumulated surplus funds in excess of $1,000.

4. "Surplus funds" means all those moneys and securities readily convertible into cash, except allowance funds and segregated trust funds, which are held to the credit of Indians of the Osage Agency and which may be disbursed, expended or invested only upon authorization by the Secretary. The term includes:

1. That portion of the quarterly distribution of tribal income and interest on segregated trust funds, in excess of $1,000, belonging to an adult Indian.

2. The proceeds, including appreciation, of the disposition of restricted real or personal property (other than partition sales).

3. Payments made by insurance companies or others for loss or damage to restricted real or personal property.

4. All moneys and securities, other than segregated trust funds, to the credit of an Indian who is less than 21 years of age (except the income derived from such lands, and the balance, if any, of such rents and income shall be paid to the living parents or guardian of the child if the parents are separated, the balance shall be paid to the parents who are living together and are the legal guardians of the Indian under 21 years of age. All other taxes for which an Indian under 21 years of age may be liable shall be paid from his surplus funds.

5. Funds and securities placed to the credit of an Indian under the distribution of an Osage estate.

(f) "Allowance funds" means that income payable to or on behalf of a living adult Indian, the expenditure and disbursement of which is not subject to supervision unless authorized pursuant to the procedure contained in §108.2.

The term includes:

1. The quarterly payment in an amount not to exceed $1,000.

2. The rentals and income from restricted lands owned by the minor child of the Indian, as provided in §108.3.

3. Income from investments.

4. Income on deposits to the credit of the Indian.

5. "Segregated trust funds" means those moneys held in the United States Treasury, one-fourth of any income from restricted lands of an Indian which represent pro rata shares of the segregation of tribal trust funds and the proceeds of the partition of restricted lands.

§ 108.2 Payment of taxes of adult Indians.

The superintendent may cause to be paid out of any money hereafter accruing or hereinafter accruing to the credit of any adult Indian all taxes of every kind and character for which such Indian is or may be liable before paying to or on behalf of any person any funds as required by law. All checks in payment of taxes shall be made payable to the proper collector. For the purpose of establishing a fund with which to meet the payment of such taxes, the Superintendent may cause the funds of adult Indians to be hypothecated in the following manner:

(a) For the payment of ad valorem taxes, one-fourth of the estimated amount of such ad valorem taxes from each quarterly payment unless this procedure would cause the obligation of more than 25 percent of such quarterly payments, in which case the necessary additional funds shall be retained from other allowance funds payable to such person under the law. If there be no other allowance funds available, or if the funds from these sources are insufficient, one-fourth of the estimated amount of such ad valorem taxes may be obligated from each quarterly payment. If an Indian who is liable for ad valorem taxes has no allowance funds, or such funds are insufficient for the payment thereof, surplus funds may be used for such payment.

(b) (1) For the payment of income taxes, one-half of the estimated amount of income taxes from each semi-annual payment of interest on deposits, but if such interest payments are insufficient to meet this obligation, additional funds shall be retained from allowance funds or mopments, rents, or other allowance funds.

(2) Whenever funds are withheld for the purpose of establishing a fund to meet the payment of taxes, the Indian shall be notified of the action taken.

§ 108.3 Payment of taxes of Indians under 21 years of age.

All taxes assessed against the restricted lands of Indians under 21 years of age shall be paid by the superintendent direct to the collector from the rents and income derived from such lands, and the balance, if any, of such rents and income shall be paid to the living parents or guardian of the child if the parents are separated, the balance shall be paid to the parents who are living together and are the legal guardians of the Indian under 21 years of age. All other taxes for which an Indian under 21 years of age may be liable shall be paid from his surplus funds.

§ 108.4 Disbursement of allowance funds.

Except as provided in §108.5, all allowance funds shall be disbursed to the Indian owner unless the Indian owner directs otherwise in writing. At the request of the Indian owner, such funds may be retained by the superintendent as voluntary deposits subject to withdrawal or other disposition upon demand or direction of the Indian owner. The superintendent may recognize a power of attorney executed by the Indian and may disburse the allowance funds of the Indian in conformity therewith so long as the power of attorney remains in force and effect.

§ 108.5 Procedure for hearings to assume supervision of expenditure of allowance funds.

(a) Whenever the superintendent has reason to believe that an adult Indian is wasting or squandering his allowance funds the superintendent may cause an investigation and written report of the facts to be made. If the report indicates that the Indian is wasting or squandering his allowance funds the following notice shall be given to the Indian, in person or by registered mail, and a copy thereof shall likewise be served upon his guardian if the Indian is under guardianship:

Section 1 of the act of February 27, 1933 (43 Stat. 1069) provides in part as follows:

"All payments to individuals in the form of certificates of competency, including amounts paid for each minor, shall, in case the Secretary of the Interior finds that such adults are wasting or squandering said income, be subject to the supervision of the Superintendent of the Osage Agency."

Enclosed is a copy of a report which has been made to me concerning your handling and management of the income paid to you through the Osage Agency. This report in-
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The surplus funds of an Indian to make direct payment of recording fees and costs of conveyancing, including abstracting costs, which are properly payable by the Indian.

§ 108.12 Telephone and telegraph messages. The superintendent may expend the surplus funds of an Indian to make direct payment for telephone and telegraph messages sent by the agency or received at the agency at the request of the Indian or his guardian or attorney.

§ 108.14 Miscellaneous expenditure of surplus funds. Upon application by an adult Indian the superintendent may disburse the surplus funds of such Indian for the following purposes:
(a) Medical, dental, and hospital expenses for the applicant or a member of his family, not to exceed one thousand dollars ($1,000) during any one fiscal year.
(b) Funeral expenses, including the funeral costs of a deceased member of his family, in an amount not to exceed five hundred dollars ($500).
(c) A tombstone or monument to mark the grave of a deceased member of his family in an amount not to exceed five hundred dollars ($500).

§ 108.15 Collections from insurance companies. Moneys collected from insurance companies for loss or damage to restricted real or personal property shall be deposited to the credit of the Indian owner as surplus funds. Moneys so deposited to the credit of an adult Indian may, upon the written application of the Indian, be disbursed by the superintendent for the purpose of purchasing or replacing the property. Moneys collected from insurance companies for loss or damage to unrestricted real or personal property shall be paid to the Indian for his unrestricted use.

§ 108.16 Reimbursement to surplus fund. When expenditures have been made from surplus funds upon the condition, and with the written agreement of the Indian, that reimbursement or repayment shall be made from future allowance funds, the superintendent is authorized to withhold from succeeding quarterly payments or other allowance funds such amounts as may be necessary to effect reimbursement within a period not exceeding 24 months from date of the first expenditure under the given authority.

§ 108.17 Inactive surplus funds accounts. When the balance of surplus funds in the credit of an adult Indian is less than $500 and when there is no likelihood of its increase within 90 days, the superintendent may disburse the entire balance to the Indian owner for his unrestricted use.

§ 108.18 Withdrawal and payment of segregated trust funds. The withdrawal and payment of segregated trust funds
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will be made only upon application and satisfactory evidence that the withdrawal and payment of such funds would be to the best interest of the Indian in view of all the circumstances shown to exist. The segregated trust funds of an Indian under guardianship or an Indian under 21 years of age shall not be released and paid except to a guardian appointed by a proper court and after the filing of a bond approved by the court conditioned upon the faithful handling of the funds. Applications for the withdrawal and payment of segregated trust funds must be made upon the forms prescribed by the Secretary for that purpose.

§ 108.19 Debts of Indians. No indebtedness of Indians will be paid from their funds under the control or supervision of the Secretary unless authorized in writing and obligated against their accounts by the superintendent or some other designated employee except in cases of emergency involving the preservation of life or property, which emergency must be clearly shown. With this exception, no authorization or obligation against the account of any Indian for indebtedness, other than that incurred by him, shall be made by the superintendent unless specifically authorized by the regulations in this part.

§ 108.20 Purchase orders. Purchase orders may be issued by the superintendent for expenditures authorized by the regulations in this part or for expenditures specifically authorized by the Commissioner. When necessary to prevent hardship or suffering, purchase orders may be issued by the superintendent against the future income of an Indian in an amount not to exceed 80 percent of the anticipated quarterly payment. The payment of purchase orders issued against future income shall be contingent upon the availability of funds.

§ 108.21 Fees and expenses of attorneys. When payment of an attorney fee for services to an Indian is to be made from his surplus funds, the employment of the attorney by the Indian must be approved. All fees shall be determined on a quantum meruit basis and paid upon completion of the services. The superintendent may approve the employment of an attorney, determine the fee, and disburse the surplus funds of the Indian in payment thereof when the fee does not exceed $500. Upon application by the Indian and upon the presentation of properly authenticated vouchers, the superintendent may disburse the surplus funds of the Indian in an amount not to exceed $200 in payment of necessary expenses incurred by the attorney.

§ 108.22 Disbursements to legal guardians. Any disbursement authorized to be made to an Indian by the regulations of this part may, when the Indian is under guardianship, be made by the superintendent to the guardian. All expenditures by a guardian of the funds of his ward must be approved in writing by the court and the superintendent.

§ 108.23 Transactions between guardian and ward. Business dealings between the guardian and his ward involving the sale or purchase of any property, real or personal, by the guardian to or from the ward, or to or from any store, company, or association in which the guardian has a direct interest or concern or contrary to the policy of the Department and shall not be approved by the superintendent without specific authority from the Department.

§ 108.24 Compensation for guardians and their attorneys. (a) The superintendent may approve compensation for services rendered by the guardian of an Indian on an annual basis, the amount of the compensation to be determined by application of the following schedule to the moneys collected by the guardian:

First $1,000 or portion thereof, not to exceed 10 percent.
Second $1,000 or portion thereof, not to exceed 9 percent.
Third $1,000 or portion thereof, not to exceed 8 percent.
Fourth $1,000 or portion thereof, not to exceed 7 percent.
Fifth $1,000 or portion thereof, not to exceed 6 percent.
Sixth $1,000 or portion thereof, not to exceed 5 percent.
Seventh $1,000 or portion thereof, not to exceed 4 percent.
Eighth $1,000 or portion thereof, not to exceed 3 percent.
Ninth $1,000 or portion thereof, not to exceed 2 percent.

All above $9,000, not to exceed 1 percent.

(b) Balance carried forward from previous reports and moneys received by a guardian or his attorney shall be excluded in determining the compensation of the guardian or his attorney.

(c) The attorney for a guardian shall be allowed compensation in an amount equal to one-half of the amount allowed the guardian under the foregoing schedule except when such attorney is himself the guardian and acting as his own attorney; in which event he shall be allowed a fee of not to exceed one-fourth of the amount allowed the guardian under the foregoing schedule in addition to the fee as guardian.

(d) The superintendent may in his discretion permit the guardian to collect rentals from restricted city or town properties belonging to his ward.

§ 108.25 Charges for services to Indians. The superintendent shall make the following charges for services to Indians: Five percent of all interest and non-liquidating dividends received from all types of securities, including stocks, bonds, and mortgages held in trust for individual Indians and interest on group investments. Such fees shall be deposited in the Treasury of the United States to the credit of the fund "Proceeds of Oil and Gas Leases, Royalties, etc., Osage Reservation, Oklahoma".

§ 108.26 Expenses incurred pending qualification of an executor or administrator. Pending the qualification of the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the superintendent may authorize the extension of credit for the following purposes, subject to allowance of claims by the executor or administrator and approval thereof by the court:

(a) Funeral expenses, including the cost of a funeral feast, in an amount not to exceed $1,000.

(b) Necessary expenses in hearings before the Osage Agency involving the approval or disapproval of last wills and testaments.

(c) Expenses necessary to preserve restricted property.

§ 108.27 Custody of funds pending administration of estates. (a) Estates of Indians of less than one-half Indian blood and estates of Indians who have certificates of competency. Upon the death of an Indian of less than one-half Indian blood or an Indian who had a certificate of competency, the superintendent shall pay to the executor or administrator of the estate all moneys and securities, other than segregated trust funds to the credit of the Indian and all funds which accrued pending administration of the estate.

(b) Estates of Indians of one-half or more Indian blood who did not have certificates of competency. Upon the death of an Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the following classes of funds, less any amount hypothesized for the payment of taxes as provided in § 108.22, shall be paid by the superintendent to the executor or administrator of the estate:

(1) Allowance funds to the credit of the Indian.

(2) Any quarterly payment authorized prior to the death of the Indian.

(3) Interest on segregated trust funds and deposits computed to the date of death.

§ 108.28 Payment of claims against estates. The superintendent may disburse to the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death sufficient funds out of the estate to pay the following classes of claims approved by the court:

(a) Debts authorized by the superintendent during the lifetime of the Indian.

(b) Expenses incurred pending the qualifications of an executor or administrator whose authority is under authority contained in § 108.26.

(c) Expenses of administration, including court costs, premium on bond of executor or administrator, transcript fees and other special fees.

(d) Living expenses incurred within 90 days immediately preceding the date of death of the Indian.
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(e) Allowance of not to exceed $100 per month for 12 months to a widow who is entitled to participate in the distribution of the estate and who does not have sufficient funds of her own.

(f) Allowance of not to exceed $35 per month for 12 months for each child of the deceased under 21 years of age who is entitled to participate in the distribution of the estate and who is in need of such support.

(g) Insurance premiums and license fees on livestock and horses.

(h) Not to exceed $1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when necessary.

(i) Debts incurred during the lifetime of the Indian but not authorized by the superintendent, if found by the Commissioner to be just and payable.

The superintendent shall disburse no funds to an executor or administrator for the payment of the foregoing classes of claims unless the executor or administrator has no other funds in his hands available for the payment of such claims.

§ 108.29 Sale of improvements. The superintendent may approve the sale of improvements on restricted Indian lands when such improvements are appraised at not more than $500 and when the owner has submitted a written request that the sale be made and a statement that the improvements can no longer be used by him. The proceeds of all such sales shall be deposited to the credit of the Indian as surplus funds. Improvements comprising buildings, or having a site located on property within the Osage villages of Pawhuska, Hominy, and Grayhorne may, upon approval of the superintendent, be disposed of to other Osage Indians. The superintendent may disburse the surplus funds of the purchaser to consummate the transaction. Sale of such improvements to non-Indian or non-Osage Indians must be approved by the Commissioner.

§ 108.30 Sale of personal property. The superintendent may approve the sale of restricted personal property other than livestock. The superintendent may also approve the sale of livestock when authorized so to do by special or general instructions from the Commissioner. The proceeds from the sale of personal property other than livestock shall be deposited to the credit of the Indian as surplus funds unless the surplus funds from which said property was purchased have been reimbursed from allowance funds, in which case the proceeds from such sale shall be disbursed as allowance funds. If no reimbursement has only been made, such portion of the proceeds of sale as may be necessary to complete the reimbursable agreement shall be deposited to the credit of the Indian as surplus funds and the balance of the sale price shall be disbursed as allowance funds. The proceeds from the sale of livestock shall be deposited in conformity with general or specific instructions from the Commissioner.

§ 108.31 Removal of restrictions from personal property. The superintendent may relinquish title to personal property (other than livestock) held by the United States in trust for the Indian when to do so will enable the Indian to use the property as part payment in the purchase of personal property and when the remainder of the purchase price is to be made from other than surplus funds of the Indian.

§ 108.32 Funds of Indians of other tribes. The funds of restricted non-Osage Indians, both adults and minors, residing within the jurisdiction of the Osage Agency, derived from sources within the Osage Nation and collected through the Osage Agency, may be disbursed by the superintendent, subject to the condition that all payments to third persons, including taxes and insurance premiums, shall be made upon the written authorization of the individual whose funds are involved and upon the written authorization of the parent or guardian, if a minor. The funds of restricted non-Osage Indians who do not reside within the jurisdiction of the Osage Agency shall be disbursed by the superintendent of the jurisdiction within which the Indian resides, to be disbursed under regulations of the receiving agency.

§ 108.33 Signature of illiterates. An Indian who cannot write shall be required to endorse checks payable to his order and sign receipts or other documents by making an imprint of the ball of the right thumb (or the left, if he has lost his right) after his name. This imprint shall be clear and distinct, showing the central whorl and striations and witnessed by two reputable persons whose addresses shall be given opposite or following their names. An Indian may sign by marking "X" before two witnesses where he is unable to attach his thumb mark for physical reasons.

§ 108.34 Financial status of Indians confidential. The financial status of Indians shall be regarded as confidential and shall not be disclosed except to the owner of the account or his authorized agent, unless authorized in advance by the Commissioner.

§ 108.35 Appeals. Any decision by the superintendent may be appealed to the area director, any decision by the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.

PART 109—JUDGMENT AND PAYMENTS IN LIEU OF ALLOTMENT FUNDS

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Note: For declaration of policy in disbursement of the judgment fund of the Wind River Reservation, Wyo., see 4 F.R. 4707, Dec. 8, 1939.

§ 109.1 Program required; purposes for which expenditures may be made. Pro-rata shares of the Shoshone Judgment Fund shall be expended in accordance with an approved program and for: Purchase of land; improvement of land to be acquired or already held by the Indian; erection and improvement of suitable homes; education; purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, clothing, and any other equipment, supplies, or training necessary to enable the Indian to fill himself or for employment to engage in farming, livestock raising, industry, or such other pursuits or vocations as will enable him to become self-supporting.

§ 109.2 Family programs. The funds of a husband and wife, and of any other adults in a family group, shall be used in the execution of a family program: Provided, The written consent of each individual is filed with the superintendent of the Wind River Indian Agency, Wyoming, hereinafter in this subpart referred to as the superintendent. The available funds of a minor may be used in the execution of such family program, only on condition that (a) the funds of such minor are used solely in the development, repair or maintenance of real or personal property owned by said minor or held in trust for him, or in the creation, development, or execution of a project or undertaking or in the production of a gain or profit which will inure directly to the benefit of such minor, (b) title to any real or personal property fixtures, purchased wholly or in part with his money shall, except with the approval of the Commissioner of Indian Affairs, be held in trust for him, or (c) the adults convey to the United States in trust for such minor sufficient real or personal property to assure, insofar as is possible, that the minor upon attaining majority will have title to the money, property of a value equal to that of his funds used in the execution of the program. The superintendent shall not approve a family program which involves the transfer to a minor, in exchange for his funds, of assets of others to the extent that it is not useful to him. The written consent of a minor who is 16 years of age or over, duly witnessed by at least two disinterested persons, shall accompany any family program which involves the use of said minor's funds.

§ 109.3 Scope of programs. Programs shall contemplate the eventual use of the entire pro-rata share or defi-