



Code of Federal Regulations

25

Revised as of April 1, 2002

Indians

Containing a codification of documents
of general applicability and future effect

As of April 1, 2002

With Ancillaries

Published by
Office of the Federal Register
National Archives and Records
Administration

A Special Edition of the Federal Register

Credit to Bureau of Indian Affairs, Branch of Finance and Accounting, P.O. Box 127, Albuquerque, New Mexico 87103.

(3) Memorandum copy and confirmed copy of Deposit Ticket will be mailed to above address, immediately upon completion and confirmation.

(4) Agency will provide information (lease, contract or other identification) which will permit depositing agency to identify deposit with particular plot of land at time distribution of the funds is to be made. This information can be shown in Block (6) if space permits, or on an attached listing.

(b) *Periodic deposits.* (1) In some circumstances, collection from Withdrawn Lands will be in such small amounts and such frequency as to be administratively burdensome to make individual deposits to the fund, or collections may be mixed with collections to be credited to other funds. In such instances depositing agencies may initially deposit the collections to their own suspense accounts. Such deposits will then be transferred to Fund 14X6140 no less frequently than monthly. The "Pay to" side of the SF 1081 will be completed as follows:

Department, Interior.
Bureau, Indian Affairs.
Agency Station Symbol, 14-20-0650.
Address, Albuquerque, NM 87103.
Appropriation or Fund Symbol, 14X6140.

and will be supported by sufficient detail to permit future identification by depositing agency. An advance copy of the SF 1081, with supporting documentation will be forwarded to the BIA at Albuquerque immediately.

(2) Agencies not using the SF 1081 procedures will issue a check made payable to the Treasurer of the United States, and forward it to:

Juneau Area Office, Bureau of Indian Affairs,
P.O. Box 8000—B, Juneau, Alaska 99802.

accompanied by a listing in sufficient detail to permit the collecting agency to identify the collections with each parcel of land at the time distribution of the funds is to be made.

§ 124.3 Proceeds received by the State of Alaska.

The State agency responsible for making collections will deposit the proceeds to the credit of the State of

Alaska. A check will then be issued, payable to the Treasurer of the United States, and will be forwarded to the Juneau Area Office, Bureau of Indian Affairs, accompanied by a detailed listing providing information which will permit identification of the funds with each particular parcel of land at the time distribution of the funds is to be made. The Juneau Area Office will deposit all such receipts to the credit of Fund Symbol 14X6140, forwarding the memorandum copy to the Branch of Finance and Accounting immediately, together with a copy of the detail provided by the State of Alaska.

PART 125—PAYMENT OF SIOUX BENEFITS

Sec.

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- 125.2 Purpose.
- 125.3 Definitions.
- 125.4 Eligibility.
- 125.5 Application procedure.
- 125.6 Administration.
- 125.7 Information collection.

AUTHORITY: Act of March 2, 1889, c. 405, sec. 17, 25 Stat. 888, 895; Act of June 10, 1896, c. 398, 29 Stat. 321, 334; Act of May 21, 1928, c. 662, 45 Stat. 984; Act of June 18, 1934, c. 576, §14, 48 Stat. 987, 25 U.S.C. 474.

SOURCE: 46 FR 36136, July 14, 1981, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 125.1 Scope.

The regulations in this part govern the payment of "Sioux benefits" to allotted Sioux Indians under the Act of March 2, 1889, c. 405, §17, 25 Stat. 888, 895; the Act of June 10, 1896, c. 398, 29 Stat. 321, 334; and the Act of May 21, 1928, c. 662, 45 Stat. 984; and to unallotted Sioux Indians on the Cheyenne River Indian Reservation under the Act of June 18, 1934, c. 576, §14, 48 Stat. 987, 25 U.S.C. 474.

§ 125.2 Purpose.

The purpose of these regulations is to implement the provisions of federal statutes which provide for the payment of "Sioux benefits" to Sioux Indians by setting forth the criteria governing eligibility for and entitlement to "Sioux benefits" and by establishing procedures governing application for and payment of "Sioux benefits."

§ 125.3 Definitions.

As used in this part, the term—

(a) *Area Director* means the Area Director, Aberdeen Area Office, BIA, or his/her delegate.

(b) *Bureau* or *BIA* means the Bureau of Indian Affairs, Department of the Interior.

(c) *Commissioner* means the Commissioner of Indian Affairs, BIA, or his/her delegate.

(d) *Sioux benefits* means the allotment of stock and farming equipment plus \$50.00 cash as provided for by the Act of March 2, 1889, c. 405, §17, 25 Stat. 888, 895, or its commuted cash value as provided in the Act of June 10, 1896, c. 398, 29 Stat. 321, 334.

(e) *Sioux Indian* means a member of any of the bands or tribes comprising the Sioux Nation of Indians to which the Act of March 2, 1889, c. 405, 25 Stat. 888, applied.

(f) *Single person* includes all unmarried persons (other than an unmarried person under the age of eighteen years) and any person who is legally separated, divorced, or widowed.

(g) *Head of a family* means only:

(1) A married person who meets the requirements of §125.4(c)(1) or (2) (if living with his/her spouse) or §125.4(c)(3) (if not living with his/her spouse), and

(2) An unmarried person under the age of eighteen years who meets the requirements of §125.4(c)(3).

(h) For the purpose of determining family support under §§125.4(c)(2) and 125.4(c)(3), *family* means two or more persons (including the applicant) related by blood, through marriage, or by adoption to the applicant and who live together in the same household and are dependent upon the applicant for all or part of their support.

§ 125.4 Eligibility.

(a) *Allotted Sioux Indians*. The eligibility of allotted Sioux Indians for Sioux benefits is governed by the Act of March 2, 1889, c. 405, §17, 25 Stat. 888, 895; the Act of June 10, 1896, c. 398, 29 Stat. 321, 334; and the Act of May 21, 1928, c. 662, 45 Stat. 984. The Act of June 18, 1934, c. 576 §14, 48 Stat. 987, 25 U.S.C. 474, is inapplicable to any Sioux Indian to whom an allotment of land has been made under the provisions of

the Act of May 29, 1908, c. 216, §19, 35 Stat. 444, 451, or any prior federal statute. Under the applicable statutes, an allotted Sioux Indian is eligible for Sioux benefits if—

(1) He/she received a valid allotment of land under the provisions of the Act of May 29, 1908, c. 216, §19, 35 Stat. 444, 451, or any prior Federal statute (regardless of whether such allotment is still held by the applicant);

(2) He/she is either a single person over the age of eighteen (18) years or a head of a family (as provided in §125.4(c)),

(3) He/she has duly made application for Sioux benefits, and such application has been approved during his/her lifetime (as provided in §125.5); and

(4) He/she has not previously been paid Sioux benefits in his/her own right (as provided in §125.4(d)).

(b) *Unallotted Sioux Indians*. The Act of June 18, 1934, c. 576, §14, 48 Stat. 987, 25 U.S.C. 474, applies only to Sioux Indians who, but for the provisions of section 1 of that Act, 25 U.S.C. 461, would have been eligible for an allotment of land under the provisions of the Act of May 29, 1908, c. 216, §19, 35 Stat. 444, 451, or any prior Federal statute, and have not, in fact, been allotted lands under the provisions of such Federal statutes. That Act has current application only to unallotted members of the Cheyenne River Sioux Tribe because of the proviso that the payment of Sioux benefits under that Act would continue only until such time as the lands available for allotment on each reservation as of June 18, 1934, would have been exhausted by the allotment of eighty (80) acres of land to each person receiving Sioux benefits under that Act. Under this statute a member of the Cheyenne River Sioux Tribe is eligible for Sioux benefits if—

(1) He/she would be eligible, but for the provisions of the Act of June 18, 1934, c. 576, §1, 48 Stat. 984, 25 U.S.C. 461, for an allotment of land under the provisions of the Act of May 29, 1908, c. 216, §19, 35 Stat. 444, 451, or any prior Federal statute, and has not been allotted lands under the provisions of such Federal statutes;

(2) He/she is either a single person over the age of eighteen (18) years or a

head of a family (as provided in § 125.4(c));

(3) He/she has duly made application for Sioux benefits and such application has been approved during his/her lifetime (as provided in § 125.5);

(4) He/she has not previously been paid Sioux benefits in his/her own right (as provided in § 125.4(d)); and

(5) The hypothetical allotment of 80 acres of tribal land to the applicant would not exhaust the lands available for allotment on the Cheyenne River Indian Reservation as of June 18, 1934, considering the allowance of similar hypothetical allotments to other such Indians previously receiving Sioux benefits under such Act.

(c) *Head of a family.* The following criteria apply in determining head of family status under both §§ 125.4(a) and 125.4(b).

(1) Except as provided in § 125.4(c)(2), when an applicant for Sioux benefits is married and living with his/her spouse, the applicant will be deemed to be a head of a family if designated as such by both the applicant and his/her spouse.

(2) When an applicant for Sioux benefits is married and living with his/her spouse, but the applicant's spouse (i) does not concur in the applicant's designation as head of the family, or (ii) has previously received Sioux benefits as head of the family which includes the applicant, the applicant will be deemed to be a head of a family if the economic contribution to the support of the family attributable to the applicant exceeds the contribution by his/her spouse for the eighteen (18) months period immediately preceding the date of the application for Sioux benefits.

(3) When an applicant for Sioux benefits is (i) unmarried, or (ii) married, but not living with his/her spouse, the applicant will be deemed to be a head of a family if the primary source of economic contribution to the support of the family is attributable to the applicant. Welfare or support payment made to the applicant by the government or his/her spouse shall be deemed attributable to the applicant.

(4) The Bureau shall not presume that a husband is a head of a family for purposes of this part solely because of his status as a husband. The Bureau

shall not presume that a wife is not a head of a family for purposes of this part solely because of her status as a wife.

(5) The Bureau shall not presume that a Sioux woman married to a non-Sioux man is a head of a family for purposes of this part solely because of such status. The Bureau shall not presume that a Sioux woman married to a Sioux man is not a head of a family for purposes of this part solely because of such status.

(d) *Double benefits.* The prohibition against multiple payment of Sioux benefits to a person in his/her own right extends to the payment of Sioux benefits under any Federal statute. However, a person will not be deemed to have received payment of Sioux benefits in his/her own right due to the fact that:

(1) Sioux benefits were paid to such person in his/her capacity as an heir of an Indian who, under prior law, was held to have a vested right to receive such benefits as of the date of death, or

(2) Sioux benefits have previously been paid to that person's spouse or former spouse. Although the prohibition against double benefits would not preclude both spouses from receiving Sioux benefits during their marriage (assuming they both were otherwise eligible) or preclude a widowed or divorced applicant from receiving Sioux benefits merely because his/her spouse had previously received Sioux benefits, an applicant would not be able to receive Sioux benefits in his/her own right first as a single adult and again as a head of a family, or vice versa.

§ 125.5 Application procedure.

(a) *Agency Superintendent.* Application for Sioux benefits must be submitted to the Agency Superintendent for the reservation and shall contain such information as may be prescribed by the Bureau. Applications must be submitted within the lifetime of the applicant. Within thirty (30) days of receipt of a completed application, the Agency Superintendent shall verify the necessary information and forward the application and relevant documentation to the Area Director along with his/her recommendation for approval or disapproval.

(b) *Area Director.* Within fourteen (14) days of receipt of an application from the Agency Superintendent, the Area Director shall approve or disapprove the application and notify, in writing, the applicant and the Agency Superintendent of such decision and, if denied, the reasons therefor. Failure of the Area Director to act within the specified time shall have the effect of approval of the application.

(c) *Appeal.* Approval of an application by the Area Director shall be final and conclusive. Disapproval of an application may be appealed to the Commissioner pursuant to the administrative review procedures of 25 CFR part 2, and the Commissioner's determination shall be subject to the administrative appeal procedures of 43 CFR part 4, subpart D. Approval of an application on administrative appeal or pursuant to judicial review shall relate back to the date of the Area Director's decision.

(d) *Prior applications.* (1) Eligibility for Sioux Benefits will be determined by an applicant's status as of the date of application, except that where an applicant's application was disapproved prior to the promulgation of these regulations under the provisions of previous Bureau regulations or policies, the applicant may reapply and, if he/she so requests, have his/her eligibility determined based upon his/her status as of the date of such prior application, which shall be deemed to be the date of the application, but nothing in this subsection shall be construed to allow any application to be made on behalf of a deceased Sioux Indian whose prior application was disapproved.

(2) Unallotted Sioux Indians of the Pine Ridge and Rosebud Reservations whose applications were submitted and disapproved prior to the termination of payment of Sioux benefits on each respective reservation may reapply for benefits under this subsection within one year of the effective date of this part and receive payment if their eligibility under §125.4(b) is established as of the date of such initial application.

(e) *Information collection.* The information collection requirements con-

tained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076-0004. The information is being collected to provide information necessary for the Bureau to determine eligibility for Sioux benefits. This information will be used to grant statutory benefits. The obligation to respond is required to obtain a benefit.

[46 FR 36136, July 14, 1981; 46 FR 38074, July 24, 1981. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 125.6 Administration.

(a) No payment of Sioux benefits may be made unless an application therefor has been made and approved during the lifetime of the applicant as provided by Federal law.

(b) Payment of Sioux benefits shall be made in accordance with a budget or plan for expenditure submitted by the applicant and approved by the Agency Superintendent.

(c) The Commissioner shall annually compute the commuted monetary value of Sioux benefits to be effective on October 1 of that year and notify the affected tribes and Bureau agencies of such determination.

(d) The Area Director shall annually notify both the Cheyenne River Sioux Tribe and the Commissioner of the number of Sioux benefits remaining available to be paid under the provisions of the Act of June 18, 1934, c. 576, §14, 48 Stat. 987, 25 U.S.C. 474.

§ 125.7 Information collection.

The information collection requirements contained in §§125.4 and 125.6 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0004. The information is being collected to solicit information necessary to make a determination of eligibility for Sioux benefits. The information will be used to determine eligibility for payment. Response is required to obtain a benefit.

[53 FR 21995, June 13, 1988]