

code of federal regulations

Indians

25

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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 FR 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 FR 7942, Oct. 15, 1958. Redesignated at 33 FR 16636, Nov. 15, 1968]

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).
- 105.13 Report of condition.
- 105.14 Checks.
- 105.15 Service charges prohibited.
- 105.16 Statements required.
- 105.17 Disqualification.

AUTHORITY: 5 U.S.C. 301. Interpret or apply sec. 1, 36 Stat. 855, as amended; 25 U.S.C. 372.

SOURCE: 22 FR 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 forms¹ 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. Of-

ficers 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 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 '009 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 his 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

¹ Forms may be obtained from the Commissioner of Indian Affairs, Washington, D.C.

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 depositaries 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 withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

§ 105.11 Reports; statement of disbursing account (Form 5-308).

Each depositary for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5-308 (and Form 5-308a if extra space is needed). Paid checks will be listed thereon in numerical order showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within 10 days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original

statement and paid checks directly to the General Accounting Office, Audit Division, Washington, D.C. The triplicate copy of the statement will be retained in the bank's files. In no case will the depositary send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Bureau. Statements will be required of both time and checking depositaries so long as any balance of Indian moneys remains on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month. Depositaries should apply to disbursing officers for a supply of the necessary forms.

§ 105.12 Statement of deposits (Form 5-302).

Each bank having a deposit not actively checked against shall submit semiannually, within 5 days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5-302. After comparing the statement with his records, the officer will forward the original to the Bureau of Indian Affairs if it is found correct. Banks carrying active checking accounts shall submit the statements within 5 days after the close of each month. Depositaries should apply to the Bureau for Forms 5-302.

§ 105.13 Report of condition.

When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depositary. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than 1 month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the report.

§ 105.14 Checks.

Each bank designated as a depositary shall furnish the disbursing

agent, without charge, an adequate supply of blank checks. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

§ 105.15 Service charges prohibited.

No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

§ 105.16 Statements required.

Depositaries shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

§ 105.17 Disqualification.

Any bank which shall fail to comply with the regulations in this part shall be liable to be disqualified.

PART 107—CREATION OF TRUSTS FOR RESTRICTED PROPERTY OF INDIANS, FIVE CIVILIZED TRIBES, OKLAHOMA

Sec.

- 107.1 Application for trust.
- 107.2 Obligations of trust company.
- 107.3 Secretarial approval discretionary.
- 107.4 Contents trust agreement.
- 107.5 Eligibility of appraisers.
- 107.6 Aiding Indians in formulating trust agreements.
- 107.7 Trust duration.
- 107.8 Trustee's security.
- 107.9 Trustee's compensation.
- 107.10 Necessary forms.
- 107.11 Limit restricted property in trust.
- 107.12 Amendments.

AUTHORITY: Sec. 7, 47 Stat. 778.

SOURCE: 22 FR 10562, Dec. 24, 1957, unless otherwise noted.

§ 107.1 Application for trust.

Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall des-

ignate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the field clerk or, in the office of the superintendent and duly attested by the field clerk or some other Government employee. The information required by the form of application and such other information as may be requested concerning the Indian and his affairs shall be carefully considered by the superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

§ 107.2 Obligations of trust company.

The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the State banking department), showing fully the conditions of said trust company or banking institutions on a day not more than 1 month prior to the date of the application for the creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular payroll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which the regulations in this part apply.