

INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(Modified DI-416)

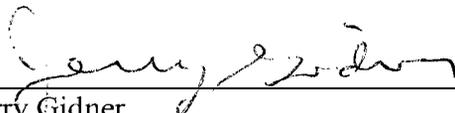
DOCUMENT IDENTIFICATION NUMBER 52 IAM 8	SUBJECT Posting for Deposits of Right-of- Way Funds	RELEASE NUMBER 08-03
FOR FURTHER INFORMATION Trust Services		DATE JAN 22 2008

EXPLANATION OF MATERIAL TRANSMITTED:

The purpose of the chapter is to clarify the 25 CFR § 169.14 reference that the deposit of right-of-way funds be held in a Federal Finance System (FFS) suspense deposit account for distribution. The policy also prescribes the criteria for posting deposits of right-of-way funds.

This policy is effective immediately and remains effective until revised, superseded or rescinded.

If you have any questions regarding this policy, contact BIA Trust Reform Liaisons, T. Parker Sando at (505) 816-1446 or Steve Graham at (505) 816-1209.



Jerry Gidner
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: None

Insert: 52 IAM 8

- 1.1 Purpose.** The purpose of the policy is to clarify the 25 CFR § 169.14 reference that the deposit of right-of-way funds be held in a Federal Finance System (FFS) suspense deposit account for distribution. The policy also prescribes the criteria for posting deposits of right-of-way funds.

The principal regulation on deposit and distribution of right-of-way funds is 25 CFR § 169.14, which requires that when filing an application for right-of-way, “the total estimated consideration and damages...” must be deposited with the Secretary and “The amounts so deposited shall be held in a ‘special deposit’ account for distribution to or for the account . . .” This term is different from the “special deposit account” which holds only trust funds, as defined at 25 CFR § 115.002.

Conveyances or contract instruments involving trust assets (e.g. right-of-way) are addressed in 25 CFR 115.904, which states that any earnest money received, before Secretarial approval of the instrument, must be deposited in a non-trust account and may **not** be deposited into a “special deposit account”.

Therefore, the “special deposit” regarding right-of-way funds in 25 CFR § 169.14 must **not** be interpreted as a “special deposit account” as defined in 25 CFR 115.002. Since the wording is so similar, special care must be taken to ensure that right-of-way funds are deposited into the correct type of account (e.g., trust or non-trust) in accordance with regulations.

- 1.2 Scope.** This policy applies to the posting of deposits for right-of-way funds.

- 1.3 Policy.** It is the policy of the Bureau of Indian Affairs (BIA) that posting deposits of right-of-way funds is made in accordance with the following criteria:

A. Deposit Funds in Federal Finance System (FFS) Suspense Account when:

- (1) This is a new right-of-way that is not approved;
- (2) This is a right-of-way renewal that is not approved and the current right-of-way has not expired;
- (3) This is a right-of-way renewal that is not approved; the current right-of-way has expired and no further action is necessary by BIA; and the tribe refuses to take action to approve the right-of-way.

B. Deposit Funds in Interest-Bearing Suspense Account when:

- (1) This is a right-of-way renewal that is not approved; the current right-of-way has expired; and BIA approval is pending.

C. Deposit Funds in Beneficiary’s Account when:

- (1) This is a right-of-way renewal and the renewal is approved.

1.4 Authority.

- A. **62 Stat. 17, 25 USC 323-328**
- B. **25 USC § 325, Payment and disposition of Compensation**
- C. **25 CFR 169 - Rights-of-Way Over Indian Lands, § 169.14**
- D. **25 CFR 115 - Subpart H - Special Deposit Accounts, §§ 115.900-904**

1.5 Responsibilities.

- A. **Director, Bureau of Indian Affairs (BIA).** The BIA Director is responsible for the development of National Policy affecting Indian lands.
- B. **Deputy Bureau Director, Field Operations, BIA.** The BIA Deputy Bureau Director of Field Operations is responsible for overseeing the Regional Directors and dissemination of policy to them.
- C. **Deputy Bureau Director, Trust Services, BIA.** The BIA Deputy Bureau Director of Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- D. **Regional Directors, BIA.** The BIA Regional Directors are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.