

Understanding Section 105(l) Leases: What They Are & How They Help Tribes

- Indian Self-Determination & Education Assistance Act (ISDEAA)
 - Empowers Tribes to operate federal programs and services under contracts/compacts.
 - Section 105(l) authorizes leases for facilities used in delivering these programs.

Background & Legal Authority

- ISDEAA enacted 1975 (P.L. 93-638) to increase tribal self-governance.
 - Section 105(l) (25 U.S.C. § 5324(l)) authorizes facility leases with DOI/IHS.
 - These leases reimburse Tribes for facility costs rather than rent payments.

What Is a 105(l) Lease — Key Features

- Facility cost reimbursement agreement—not a traditional lease.
 - Eligible for facilities used in carrying out ISDEAA programs.
 - Cost elements may include rent, utilities, maintenance, insurance, and depreciation.
 - Regulated under 25 C.F.R. Part 900 Subpart H.

How a Tribe Initiates a 105(l) Lease & the Process

- Submit lease proposal showing title/interest and program use.
 - Provide facility details, photos, cost data, and program list.
 - Negotiate compensation (fair market rent, cost elements, or both).
 - Lease executed between Tribe and DOI/IHS; funds reimbursed for eligible costs.

Benefits & Challenges for Tribes

- Benefits:
 - Provides stable funding for facility operations and upkeep.
 - Improves infrastructure and enhances tribal autonomy.
 - Supports financing by leveraging guaranteed lease payments.
- Challenges:
 - Complex negotiation and paperwork.
 - Budget dependency on federal appropriations.
 - Audit and compliance oversight.

Case Examples, Strategies & Next Steps

- Case examples: Tribes using 105(l) leases with IHS to maintain health facilities.
 - Key strategies:
 - 1. Assess and document eligible facilities.
 - 2. Engage architects/appraisers for valuation.
 - 3. Pilot with one facility to build experience.
 - 4. Educate leadership and negotiate collaboratively.
 - Next steps: Identify facilities, prepare proposals, and track outcomes.