

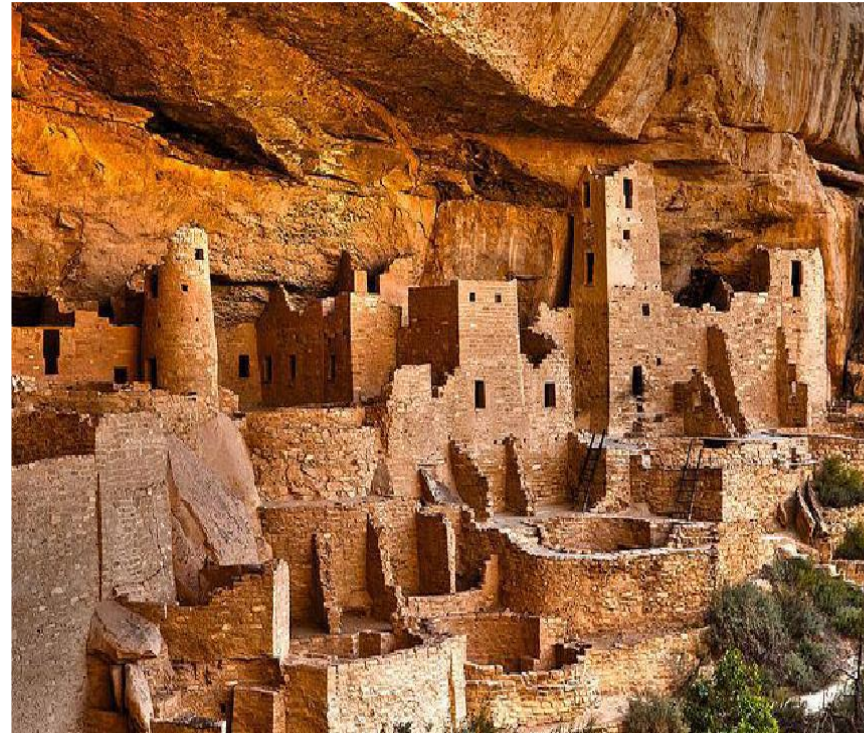


Since 1975, Indian Tribes and tribal organizations (T/O) have faced challenges in arranging for suitable facilities and equipment to operate programs contracted under the Indian Self-Determination Act, PL 93-638. In response, the Indian Self-Determination Act was amended in 1988 that made significant improvements in federal statutes and regulations intended to assist Tribes in operating their contracted programs. One significant improvement was the ability of T/O to lease Tribal facilities to the Secretary for the operation of programs contracted under PL 93-638. This presentation provides information and guidance on how T/O may take advantage of Section 105 (l) of the Act to enter into leases for Tribal facilities with the Secretary.

105(l) - 2025

105(l) Guidebook Overview

- (ISDEAA) Section 105(l)
- Eligibility Requirements
- Types of Compensation
- The Application Process
- Required Documents
- Lease Terms & Renewals




Indian Self Determination and Education Assistance Act (ISDEAA)



The act is statutory and, upon request of a Tribe or Tribal organization (T/TO), requires the Secretaries of the Department of the Interior and the Department of Health and Human Services to enter into a facility lease agreement for certain facilities used for Programs, Functions, Services, or Activities (PFSAs) assumed under ISDEAA.

Section 105(l) Leases are not traditional leases but are more like “*Facility Cost Agreements*” between the BIA, BIE, or IHS and T/TO for facility operational expenses.



Eligibility Requirements



Eligible facilities are those to which the T/TO has:


- Title
- Leasehold Interest
- Trust Interest

Note: A T/TO may negotiate to construct a new facility to carry out PL 93-638 programs.

T/TO must prove interest in a facility by:

- Trust Title
- Quitclaim Deed or Warranty Deed
- Lease or Rental Agreement

The facility must be *occupied*, the space must be used for a PFSA, and the PFSA must be in an approved ISDEAA Self-Determination contract, Self-Governance compact, or Public Law 100-297 grant.



Types of Compensation

- Fair Market Rental
- Cost Elements listed in 25 CFR Section 900.70 (a) – (h) only
 - (a) Rent (sublease).
 - (b) Depreciation of the useful life of the facility based on acquisition costs not financed with federal funds.
 - (c) Contributions to a reserve for replacement of facilities.
 - (d) Principal and interest paid or accrued.
 - (e) Operation and maintenance expenses, to the extent not otherwise included in rent or use allowances.
 - (f) Repairs to buildings and facility equipment (no furnishings or office equipment).
 - (g) Alterations that are needed to meet program requirements (Tenant improvements).
 - (h) Other reasonable expenses (Tribe must provide written justification).
- Combination of Fair Market Value and Cost Elements

** Costs included in compensation must be reasonable and not duplicative.*

Application Process



On Tribal letterhead, submit a letter of intent to ISDEAA105L@BIA.GOV.

Letter of Intent should include:


- The name of each facility.
- The address of each facility.
- Identify the approved ISDEAA PFSA's in each facility.
- The type of compensation the Tribe is seeking.
- A statement of ownership interest.
- Identify fiscal or calendar year accounting.

Note: *The initial lease is prorated based on receipt of the approved letter of intent.*



Required Documents



- Proof of ownership (Title, Deed, Trust Interest, Rental Agreement).
 - Certificate of occupancy.
 - Recent photos of the facility's interior and exterior.
 - Fair market rental appraisal/analysis (FMRA) and or proof of actual cost.
 - Floor plans that clearly identify all spaces and types of use.
 - Financial certification.
 - Tribal resolution.
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EXAMPLE - Building with Multi-Use Spaces

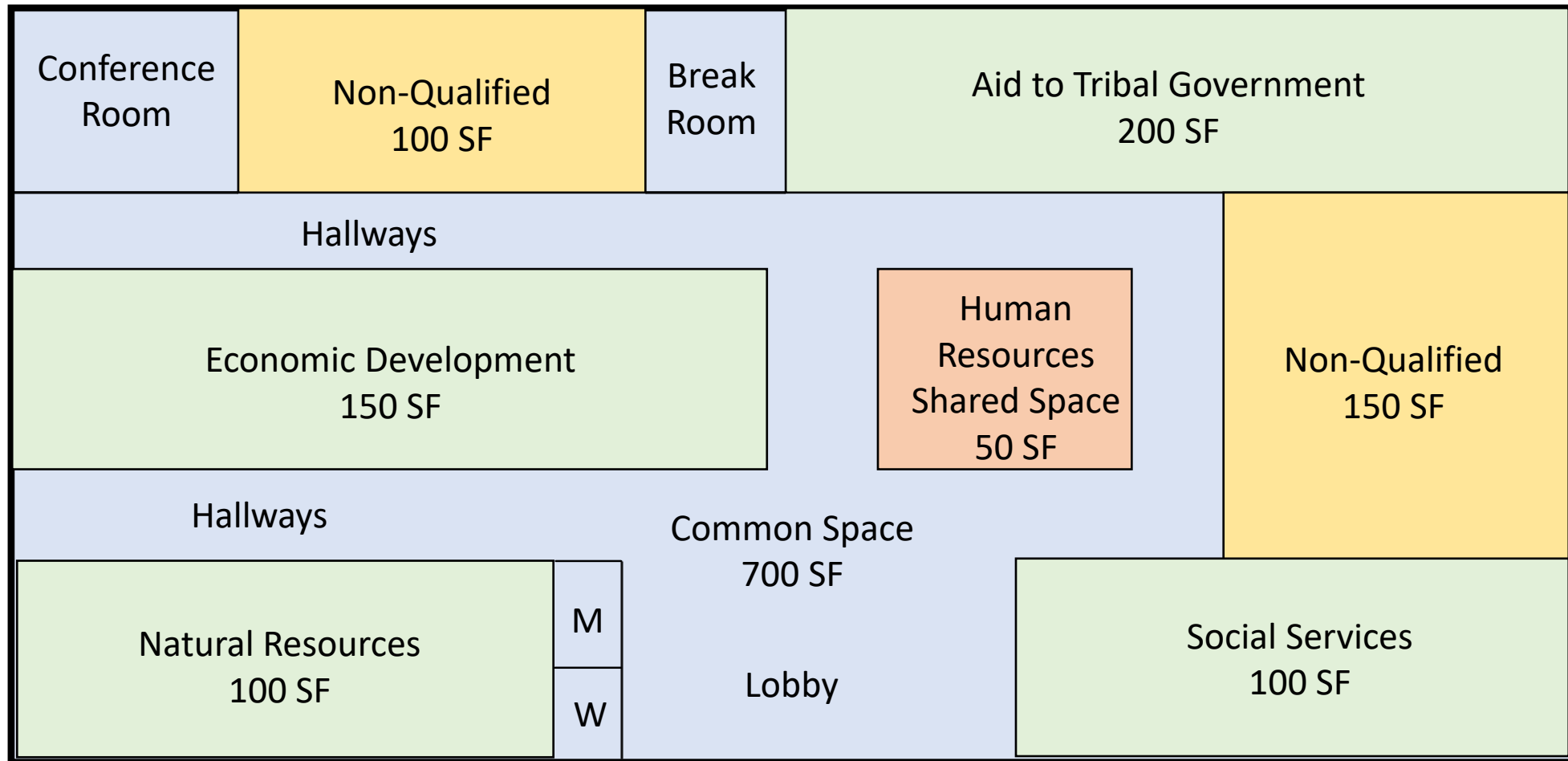
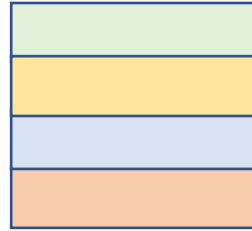
Total Space = 1,550 SF

BIA PFSA Space = 550 SF

Non-Qualified Space = 250 SF


Common Space = 700 SF

Shared Space = 50 SF



Lease Execution Process



- Tribe submits letter of intent to ISDEAA105L@BIA.GOV.
 - Assigned Realty Specialist (RS) verifies PFSAs qualify based on the T/TO current funding agreement.
 - RS reviews submitted documents, confirming they meet requirements.
 - RS and T/TO review the draft lease and confirm the agreeable terms.
 - Surnaming/Legal sufficiency review.
 - All parties sign the lease.
 - The RS sends an executed copy to the T/TO and requests the delivery of funds.
 - The funds will be distributed to the T/TO in one lump sum annually by the 638 contract/compact or 297 grant awarding official.
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Lease Terms and Renewals



Initial Lease

- Lease is incorporated into the ISDEAA 638 contract, compact, or 297 grant.
- Initial leases are prorated for one calendar or fiscal year.

Lease Renewals

- Renewal requests must be received 90 days before lease expiration.
 - Lease terms may be renegotiated at renewal.
 - Renewals are for one calendar or fiscal year.
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The Path Forward



- All correspondence needs to go through ISDEAA105L@BIA.GOV
- The technical assistance guidebook, presentation slides, and sample templates are posted on the Office of Tribal Leases website: <https://www.bia.gov/as-ia/ofpsm/otl>
- The 105(l) team will coordinate with IHS to ensure no duplicative payments.
- Technical assistance is available upon request.





QUESTIONS?