105(l) Tribal Consultations

Updates to the 105(l)-lease guide

September 8th 1:00 pm EST.

September 10th 2:00 pm EST.

Agenda

Introductions

Review of Updates to the 105(l)-lease guide:

- Federally Funded Facilities
- New Construction Pre-Approval
- Reserve Funds
- Cost Approach Appraisals
- Backdating

Open floor for comments and questions

Federally Funded Facilities

This is not a new policy it was simply added to the guidelines for clarity.

For any facility or portion of a facility whose acquisition or improvements were financed with Federal funds, compensation is:

- Limited to allowable O&M costs necessary to support PFSA delivery.
- Depreciation allowance only on acquisition costs not financed with Federal funds.
- Non-duplication requirement that applies to all lease elements.

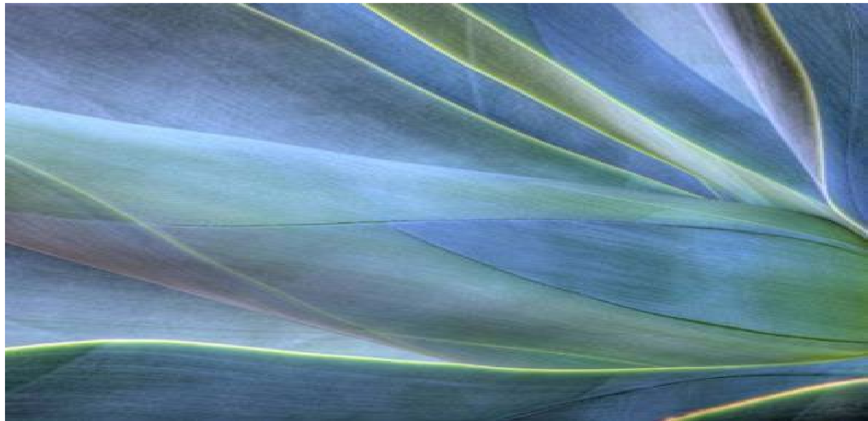
New Construction Pre-Approval (Optional-Highly Recommended)

Conceptual designs and cost must be reviewed for reasonableness:

- New Schools - Reviewed by the DFMC (Division of Facilities Management and Construction).
- Correctional Facilities - Reviewed by the OJS (Office of Justice Services).
- All Other New Construction Facilities - Will be reviewed by the OTL (Office of Tribal Leases).

T/TO must submit:

- Conceptual Design
- Specify the PFSAs
- Estimated cost
- Estimated completion date
- Written justification for the facility



Reserve Fund

This is not a new policy; the calculation was updated for simplicity.

A reserve fund is a set of savings to cover unexpected future costs not part of the regular operating budget.

- 20% of the cost or replacement cost.
- The tribe must provide proof of the total construction cost or replacement cost.
- Reserve payment will be made for 10 years annually from the start of the lease.
- An inflation rate of 4% per annum will be factored into the replacement cost calculation.

Cost Approach Appraisals

The cost approach may only be used when at least one of the following conditions exists:

- Fewer than three reliable comparable rentals can be identified after documented and reasonable search efforts have been completed within a 200-mile radius.

- The facility is a special use or unique property type lacking an active rental market.

- Available comparables are unreliable due to volatility or atypical property characteristics or other documented conditions (such as Historic Buildings, Extremely Remote Areas).

- Comparative analysis demonstrates the Cost Approach provides a more reliable indication of value than market comparables.

Cost Approach (Continued)

Approval based on Reasonableness

The OTL may accept cost approach appraisals if values are reasonable.

Reasonable

Values that are logical and not extreme. It is also commonly used to describe prices that are affordable and fair.

Waiver Request

If the Tribe chooses, they may submit a request for waiver form to the Assistant Secretary of Indian Affairs for each facility where OTL has deemed the appraisal to be unreasonable.

Backdating

- The initial lease is backdated to start on the date the complete 105(l) application is received.

- All documents must be received within the application year, or the Tribe must re-apply in the current year.

All renewals will be subject to the current year's policies.

Please submit comments or questions by October 12, 2026, to: consultation@bia.gov