



# ISDEAA 105(I) Facility Lease Guidebook Overview

2024


# 105(I) Guidebook Overview

- (ISDEAA) Section 105(I)
- Eligibility Requirements
- Types of Compensation
- How to Start the 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, 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 the provision (PFSAs) assumed under ISDEAA.
  - Programs, Functions, Services, or Activities (**PFSAs**)
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# What is a 105(l) Facility Lease?

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## Chapter 1

- They are not traditional leases.
- They are facility cost agreements that compensate the Tribes for facility operational expenses associated with using the facility to administer (ISDEAA) contracted/compacted services.

# The Tribe's Considerations

## Eligibility

- Tribe must hold title to the facility; or
- A leasehold interest in the facility; or
- A trust interest in the facility
- The facility must be occupied, the space must be used for a qualified program function or activity, 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
- Combination of Fair Market Value and Cost Elements

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

# Cost Elements listed in 25 CFR Section 900.70 (a) – (h) only

**To the extent that no element is duplicative, the following elements may be included:**

- (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).

# How to Start the Process

## Chapter 2

- On Tribal letterhead, submit a letter of intent to [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)
- **The letter of intent should include:**
  - Identify each facility, including the address.
  - List the approved ISDEAA PFSA's in each facility.
  - The type of compensation the Tribe is seeking.
  - A statement of ownership interest.
  - Identify whether the Tribe operates on fiscal or calendar year.

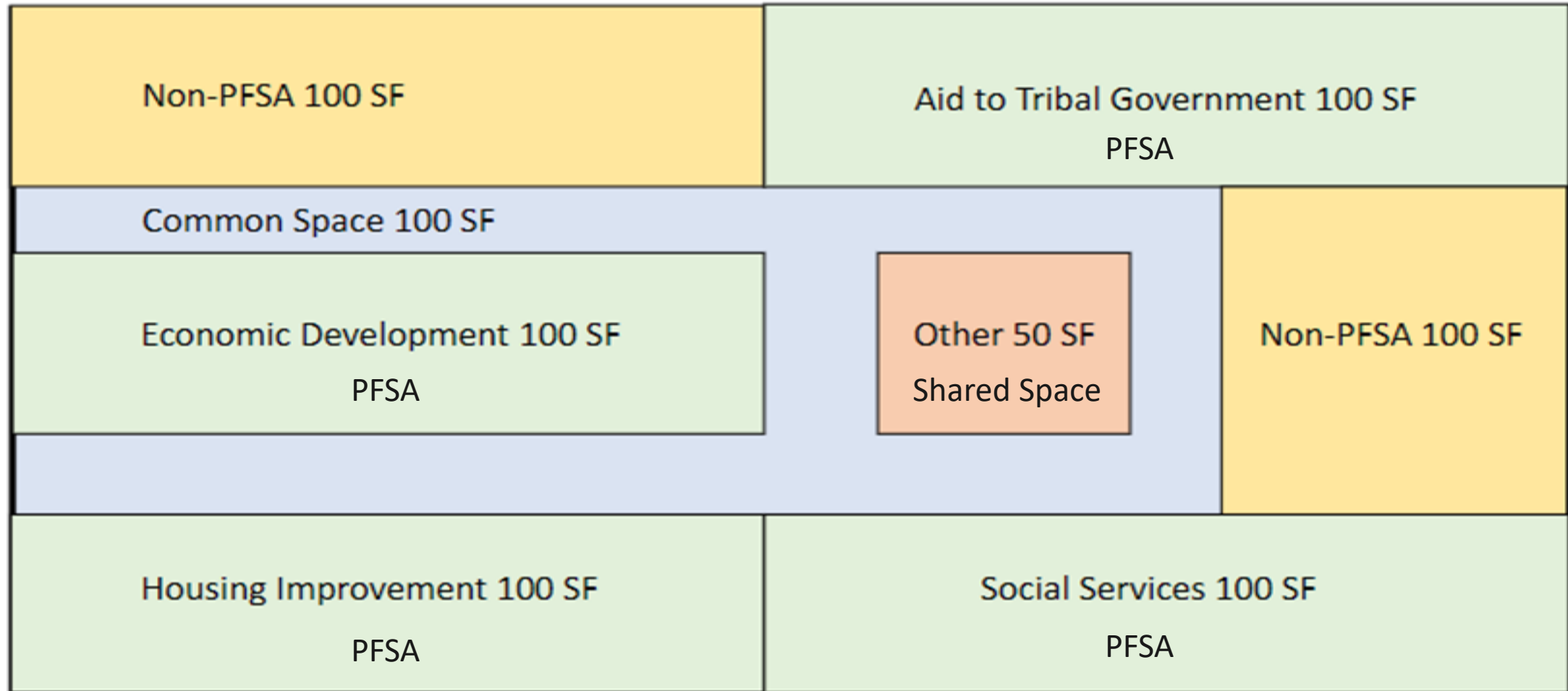
# Required Documents

## Chapter 3

- 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.



# Floor Plan Example



# Lease Process Overview

## Proposal Chapters 1-2

- Determine eligibility (PFSAs must be in the current funding agreement).
- Determine the method of compensation.
- Tribe submits letter of intent to [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)

## Draft and Review Chapters 5-6

- IA verifies that the PFSAs qualify based on the Tribe's current funding agreement.
- IA reviews submitted documents, confirming they meet requirements.
- IA provides (Technical Assistance) as needed.
- Tribe reviews the draft lease and confirms that the terms are agreeable.

## Approval and Execution Chapter 6

- Surnaming/Legal sufficiency review
- Final lease execution and funding


# Lease Terms and Renewals

Chapters 6 - 7

- Initial lease is prorated beginning upon receipt of approved letter of intent.
- Lease is incorporated into the ISDEAA 638 contract, compact, or 297 grant.
- **Lease Renewals:**
  - renewal requests must be received 90 days before lease expiration.
  - All renewals are for a full calendar year or fiscal year.
  - Terms may be renegotiated at renewal (space, method of compensation).

# The Path Forward



- All correspondence needs to go through [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)
  - The guidebook, presentation slides, and sample templates are posted at: <https://www.bia.gov/as-ia/ofpsm/otl>
  - The 105(l) team will provide technical assistance as needed.
  - The 105(l) team will coordinate with IHS to ensure no overlaps.
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**Thank You!**

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