



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 requires the Secretaries of the Department of the Interior and the Department of Health and Human Services, upon request of a tribe or tribal organization, 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(I) Facility Lease?

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/compact 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, Public Law 100-297 grant, or 477 program.

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 on 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 equipment
- (g) Alterations needed to meet contract requirements
- (h) Other reasonable expenses

How to Start the Process

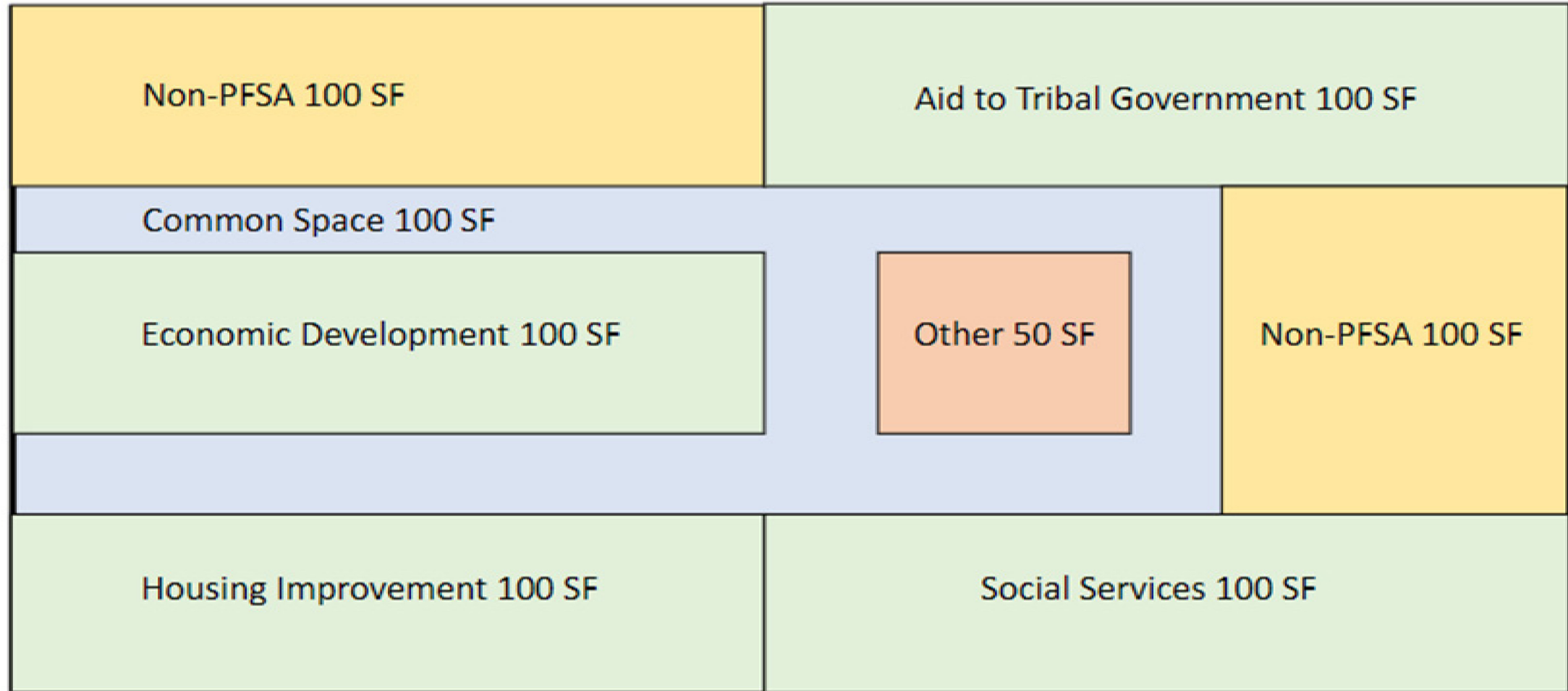
- There is no standard application
- Contact us at ISDEAA105L@BIA.GOV
- **The lease proposal should confirm the following:**
 - The Tribe holds title to, a leasehold interest in, or a trust interest in the facility
 - The Tribe is using the facility to administer an approved ISDEAA PFSA
 - List the PFSAs in each facility
 - The type of compensation the Tribe is seeking
 - The address for each facility
 - Identify the Tribe's accounting system; fiscal or calendar year

Required Documents

Chapter 3

- Proof of ownership
- Certificate of occupancy
- Recent photos of the facility's interior and exterior
- FMRA and or proof of actual cost
- Floor plan showing all the PFSA's, and any non-PFSA's, common areas, shared space, and a description if there are other tenants in the facility
- Financial certification
- Tribal resolution

Floor Plan Example



Lease Process Overview

Proposal Chapters 1-2

- Determine eligibility
- Determine the method of compensation
- Tribe submits proposal to ISDEAA105L@BIA.GOV

Draft and Review Chapters 5-6

- IA verifies the PFSAs qualify based on the Tribe's current funding agreement
- Review the required documents
- Follow on (Technical Assistance) meetings as needed
- Tribe review the draft lease

Approval and Execution Chapter 6

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


Lease Terms and Renewals

Chapters 6 - 7

- The initial lease term for either a calendar year or fiscal year will be prorated to the approved proposal letter's date of receipt.
- The awarding official will incorporate the 105(l) lease agreement into the ISDEAA agreement or 297 grant
- **Lease Renewals:**
- Request 90 days before the expiration of the current lease
- Are for a full calendar year or fiscal year
- Terms may be renegotiated at renewal

The Path Forward



- Contact us at ISDEAA105L@BIA.GOV
 - Published Guidebook <https://www.bia.gov/as-ia/ofpsm/brpl/105lp>
 - 105(I) team will provide sample templates for required documents
 - The 105(I) team will provide technical assistance as needed
 - The 105(I) team will coordinate with IHS to ensure no overlaps
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Thank You!

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