

Need to Know Basics: Indian Self-Determination and Education Assistance Act



September 29, 2022 | **CLIENT ALERTS**

1. What is 105(l)?

Section 105(l) of Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), requires the Secretaries of Interior and Health and Human Services to enter into facility lease agreements for facilities the Tribe has title to, a leasehold interest in, or a trust interest in, and which the Tribe uses to administer certain programs, functions, services, and activities under its 638 contracts or compacts.

2. What types of facilities are covered?

Facility spaces used directly or indirectly by a Tribe to administer its contracted programs are eligible. Interior and IHS generally do not compensate for space used for other programs even if it is within the same building as the contracted program(s). However, Interior will compensate a minimum of 50 percent for spaces used indirectly to support a contracted program. For example, though an accounting office may support more than one particular program, it would be impossible for the Tribe to administer their contracted program without that accounting function so Interior would compensate for 50 percent of that accounting space but may compensate beyond 50 percent if the Tribe demonstrates it uses more than 50 percent of the space to support its contracted programs. Other examples include tribal HR, administration, council, IT, compliance spaces, etc.

3. How much compensation will a Tribe receive?

The amount of compensation a Tribe will receive depends on a few factors. First, Tribes may choose to be compensated based upon fair market rental value, the individual elements contained at 25 C.F.R. 900.70, or a combination of fair market rental and those individual elements to the extent that compensation is reasonable and non-duplicative. Additionally, while this program does not fund construction, it does require the Secretaries to pay principal and interest payments for any financing a Tribe receives to construct a new facility.

4. How we can help.

If your Tribe or Tribal Organization is ready to secure this funding, we are ready to assist. We can initiate the process for you with the Department of the Interior and the Indian Health Service. Recent appropriations law requires the Department of the Interior to calculate lease compensation beginning on the date they receive the Tribal Letter of Interest. This means that we can start the clock for compensation while we work together to prepare the final lease submissions, maximizing the compensation you receive.

For more information on ISDEAA, please contact; [Bryan C. Shade](mailto:bshade@lippes.com) 202.888.7610 x1603 bshade@lippes.com or [Michael G. Rossetti](mailto:mrossetti@lippes.com) 202.888.7610 x1601 mrossetti@lippes.com or anyone from our [Indian Law Team](#).

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