

**DOCUMENTATION CHECKLIST FOR  
SECTION 105(I) LEASE PROPOSALS**

The Indian Health Service (IHS) may only award leases that are compliant with the requirements of section 105(I); 25 C.F.R. Part 900, Subpart H; and other applicable law. IHS considers the documentation listed below as relevant to the Tribe/Tribal Organization (T/TOs) lease proposal.

1. Ownership documentation demonstrating the T/TO holds title to, a leasehold interest in, or a trust interest in the facility. If T/TOs requests IHS sub-lease the facility, provide a copy of the lease and any amendments. Lease language must authorize the T/TO to subletting/subleasing.
2. A facility description that includes an architectural floorplan with measurements and gross square footage, exterior/interior photos, recent inspection report and identification of all programs/departments operated on the floorplan, and identification of the total square footage used to carry out the T/TO Title I or Title V ISDEAA agreement.
3. If requesting lease proposal is based on a Fair Market Rental (FMR), provide an analysis conducted by a qualified professional including the prevailing rental prices in the geographic area with a comparison of similar size, number of floors, construction age, utilities, amenities, structures or similarly located structures if the facility is unique to the location.
4. If requesting lease proposal is based on 900.70 elements (a) – (h), provide “Attachment A” summarizing the expenses and the T/TO’s general ledger, preferably in Excel format, clearly identifying each expense to correspond with Attachment A.
5. Provide copies of contracts related to maintenance, janitorial, fire protection/firefighting, trash/waste removal, security services, pest control, and building management services, if these costs are included in the lease proposal.
6. Depreciation and use allowance cost may be compensable if the T/TO has full ownership of the facility. IHS uses a straight-line depreciation method based on a 39-year useful life. Complete Attachment C to identify the source of funds, both federal and non-federal used for facility construction or acquisition, and documentation sufficient to establish depreciation such as: facility construction or acquisition costs (not including furniture, fixtures & equipment); the source of funds used for facility construction or acquisition; the proposed useful life of the facility; and the amounts and dates of any capital improvements extending the useful life of the facility.
7. If requesting compensation for reserves, complete Attachment “D” to identify the major fixed equipment/building services equipment to be replaced, the current acquisition cost and useful life of each item.
8. As an alternate to completing Attachment D, the T/TO may provide documentation sufficient to establish the cost of major fixed equipment and building services equipment replaced in the respective year the reserve equipment item will be replaced.
9. Relevant contracts demonstrating principal and interest paid or accrued interest on a loan for major fixed equipment and building services equipment, if included in the lease proposal.
10. Relevant insurance policies, if included in the lease proposal.
11. Documentation sufficient to establish salary/fringe for in-house maintenance, custodial, security and building management personnel, if included in the lease proposal.

## 900.70 - IHS COMPENSATION SUMMARY

**NAME OF TRIBE**  
**NAME OF HEALTH FACILITY**  
**ADDRESS**  
**CITY, STATE, ZIP**  
**LEASE NO. \_\_\_\_\_**

900.70	COMPENSATION ELEMENTS		AMOUNTS
(a)	RENT		\$ -
(b)	DEPRECIATION		\$ -
(c)	CONTRIBUTIONS TO A RESERVE		\$ -
(d)	PRINCIPAL AND INTEREST		\$ -
(e)	<b>OPERATIONS &amp; MAINTENANCE EXPENSES</b>		
	(1)	WATER/SEWAGE	\$ -
	(2)	UTILITIES (ELECTRIC)	\$ -
	(3)	FUEL	\$ -
	(4)	INSURANCE	\$ -
	(5)	BUILDING MANAGEMENT SUPERVISION & CUSTODIAL SERVICES	\$ -
	(6)	<b>CUSTODIAL AND CUSTODIAL SUPPLIES</b>	
	(i)	JANITORIAL SALARY	\$ -
	(ii)	JANITORIAL SUPPLIES	\$ -
	(7)	PEST CONTROL	\$ -
	(8)	SITE MAINTENANCE (SNOW REMOVAL)	\$ -
	(9)	TRASH AND WASTE REMOVAL	\$ -
	(10)	FIRE PROTECTION/FIRE FIGHTING SERVICES & EQUIPMENT	\$ -
	(11)	<b>MONITORING AND PREVENTIVE MAINTENANCE</b>	
	(i)	HEATING/VENTILATION	\$ -
	(ii)	PLUMBING	\$ -
	(iii)	ELECTRICAL	\$ -
	(iv)	ELEVATOR	\$ -
	(v)	BOILERS	\$ -
	(vi)	FIRE SAFETY SYSTEM	\$ -
	(vii)	SECURITY SYSTEM	\$ -
	(viii)	ROOF, FOUNDATION, WALLS, FLOORS	\$ -
	(12)	UNSCHEDULED MAINTENANCE	\$ -
	(13)	SCHEDULED MAINTENANCE (SALARY & MATERIALS)	\$ -
	(14)	SECURITY SERVICES	\$ -
	(15)	MANAGEMENT FEES (i.e., Operations & Maintenance Expenses)	\$ -
	(16)	<b>OTHER REASONABLE &amp; NECESSARY OPERATION OR MAINTENANCE COSTS</b>	
	(i)	MAINTENANCE SALARY/FRINGE	\$ -
	(ii)	MAINTENANCE MATERIALS	\$ -
(f)	REPAIRS BUILDINGS AND EQUIPMENT		\$ -
(g)	ALTERATIONS NEEDED TO MEET CONTRACT REQUIREMENTS		\$ -
(h)	OTHER REASONABLE EXPENSES		\$ -
	Compensation Amount		\$ -
	Maintenance and Improvement		\$ -
	Facility Support Account		\$ -
	Other Offsets		\$ -
	<b>Adjusted Compensation Amount</b>		<b>\$ -</b>











**105(I) Reserve for Replacement Costs  
(Fixed Equipment and/or Building Service Equipment)**

**NAME OF TRIBE  
NAME OF CLINIC  
ADDRESS  
CITY/ST/ZIP  
LEASE NO. IHS-**

<b>ITEM</b>	<b>RESERVE ITEMS</b>	<b>USEFUL LIFE (In Years)</b>	<b>REMAINING SERVICE YEARS</b>	<b>PRESENT DAY REPLACEMENT COST</b>	<b>ANNUAL 105(I) RESERVE COST</b>
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
			<b>Total Annual Reserve Cost:</b>		



CHIEF FINANCIAL OFFICER CERTIFICATION

I certify the expenses in (FY#### or CY####) for \_\_\_\_\_(Name of Tribe) provided to the Indian Health Service, were extracted from the Tribal General Ledger (GL). To the best of my knowledge, the expenses are a true and accurate account of payments entered in the Tribal GL.

\_\_\_\_\_  
Name of CFO, Signature

\_\_\_\_\_  
Date

**LEASE AGREEMENT**  
**Lease No. (IHS Assigns Lease No.)**

**Between**

**NAME OF TRIBE**  
**A Federally Recognized Tribe,**

**Lessor,**

**and**

**UNITED STATES OF AMERICA**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**INDIAN HEALTH SERVICE**

**Lessee**

**Lease of Space for the**

**NAME OF HEALTH FACILITY**  
**ADDRESS**  
**CITY, STATE & ZIP CODE**

**LEASE AGREEMENT FOR  
NAME OF TRIBE**

NAME OF HEALTH FACILITY  
ADDRESS  
CITY, STATE & ZIP CODE

THIS Lease Agreement is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, between **NAME OF TRIBE** ("Tribe" or "Lessor"), a federally recognized tribe, and **UNITED STATES OF AMERICA, DEPARTMENT OF HEALTH AND HUMAN SERVICES, INDIAN HEALTH SERVICE** ("IHS" or "Lessee"), collectively "the parties," under the authority of Section 105(l) of the Indian Self-Determination and Education Assistance Act (ISDEAA) at 25 U.S.C. § 5324(l) (previously 25 U.S.C. § 450j(l)) and the regulations at 25 C.F.R. Part 900, Subpart H.

The parties, for the considerations mentioned in the paragraphs below, covenant and agree as follows:

1. **Facility:** The Tribe hereby leases to the IHS the following described premises: A building consisting of \_\_\_\_\_ square feet located at \_\_\_\_\_.
2. **Purpose:** By agreement with the IHS, this facility will be used by the Tribe for the administration and delivery of health care pursuant to the ISDEAA, 25 U.S.C. § 5301 et seq., and the compact and funding agreement between the Secretary of Health and Human Services and Tribe.
3. **Term:** The term for this lease will be from (FY or CY) \_\_\_\_\_ through \_\_\_\_\_, subject to termination and renewal rights as stated in paragraphs 5 and 6.
4. **Compensation Payment & Offset:** The IHS shall pay Tribe the compensation of \$\_\_\_\_\_. This lease amount is based on \_\_\_\_\_ (i.e., fair market value, cost elements or combination of both) expenses pursuant to 25 C.F.R. § 900.70 that the IHS has determined are reasonable and non-duplicative under 25 U.S.C. § 5324(l) and 25 C.F.R. § 900.70, as reflected in Attachment A dated \_\_\_\_\_, incorporated by reference herein.

(Insert if applicable) The parties have agreed that the total lease compensation amount identified above shall be offset by \$\_\_\_\_\_, the amount associated with the leased Facility paid by IHS to the Tribe through the ISDEAA funding agreement for the FY \_\_\_\_ Maintenance & Improvement (M&I) program and Facility Support Account (FSA) funds in the amount of \$\_\_\_\_\_. The total lease compensation as adjusted by the compensation offset is \_\_\_\_\_. This amount shall be paid as a lump sum, in advance, to the Tribe under this Lease Agreement.

Payments shall be made to:       NAME OF TRIBE  
  ADDRESS  
  CITY, STATE, ZIP CODE.

5.    **Renewal:** The Lessor shall provide notice of intent to renew this Lease at least one month in advance of the expiration date of the lease term. Lessor shall then submit a written proposal for compensation consistent with 25 C.F.R. Part 900, Subpart H, with supporting documentation, to the point of contact identified in this Lease for the Lessee, no later than \_\_\_\_\_ of the following calendar year. Lessee will initiate negotiations for the renewed lease no later than 30 days after Lessee's receipt of Lessor's proposal.
  
6.    **Termination:** This lease will be terminated if the Tribe fails to use the facility to provide ISDEAA programs, services, functions or activities agreed to in its funding agreement.
  
7.    **Points of Contact:** All correspondence including submission in accordance with paragraphs 5 and 6 of this lease shall be sent to the following:  
  
          Michael R. Weaver, P.E., BCEE  
          Director, Division of Engineering Services  
          Office of Environmental Health and Engineering, Indian Health Service  
          701 5<sup>th</sup> Avenue, Suite 1600, MS-24  
          Seattle, WA 98104  
  
          Name of Point of Contact, Title  
          Name of Tribe  
          Address  
          City, State, Zip Code
  
8.    **Incorporation:** This lease will be included as an attachment to Lessor's ISDEAA funding agreement and will be deemed a part thereof pursuant to 25 U.S.C. § 5385(d)(2).

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the date first above written.

**LESSOR**

By: \_\_\_\_\_  
Name of Authorized Official  
Title  
Name of Tribe  
Date

**UNITED STATES OF AMERICA**

By: \_\_\_\_\_  
Michael R. Weaver, P.E., BCEE  
Director, Division of Engineering  
Services, Office of Environmental  
Health and Engineering,  
Indian Health Service  
Date

**Subpart G—Programmatic Reports and Data Requirements****§ 900.65** What programmatic reports and data shall the Indian tribe or tribal organization provide?

Unless required by statute, there are no mandatory reporting requirements. Each Indian tribe or tribal organization shall negotiate with the Secretary the type and frequency of program narrative and program data report(s) which respond to the needs of the contracting parties and that are appropriate for the purposes of the contract. The extent of available resources will be a consideration in the negotiations.

**§ 900.66** What happens if the Indian tribe or tribal organization and the Secretary cannot come to an agreement concerning the type and/or frequency of program narrative and/or program data report(s)?

Any disagreements over reporting requirements are subject to the declination criteria and procedures in section 102 of the Act and subpart E.

**§ 900.67** Will there be a uniform data set for all IHS programs?

IHS will work with Indian tribe or tribal organization representatives to develop a mutually defined uniform subset of data that is consistent with Congressional intent, imposes a minimal reporting burden, and which responds to the needs of the contracting parties.

**§ 900.68** Will this uniform data set be required of all Indian tribe or tribal organizations contracting with the IHS under the Act?

No. The uniform data set, applicable to the services to be performed, will serve as the target for the Secretary and the Indian tribes or tribal organizations during individual negotiations on program data reporting requirements.

**Subpart H—Lease of Tribally-Owned Buildings by the Secretary****§ 900.69** What is the purpose of this subpart?

Section 105(l) of the Act requires the Secretary, at the request of an Indian tribe or tribal organization, to enter into a lease with the Indian tribe or tribal organization for a building owned or leased by the tribe or tribal organization that is used for administration or delivery of services under the Act. The lease is to include compensation as provided in the statute as well as "such other reasonable expenses that the Secretary determines, by regulation, to be allowable." This subpart contains requirements for these leases.

**§ 900.70** What elements are included in the compensation for a lease entered into between the Secretary and an Indian tribe or tribal organization for a building owned or leased by the Indian tribe or tribal organization that is used for administration or delivery of services under the Act?

To the extent that no element is duplicative, the following elements may be included in the lease compensation:

- (a) Rent (sublease);
- (b) Depreciation and use allowance based 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, including, but not limited to, the following:
  - (1) Water, sewage;
  - (2) Utilities;
  - (3) Fuel;
  - (4) Insurance;
  - (5) Building management supervision and custodial services;
  - (6) Custodial and maintenance supplies;
  - (7) Pest control;
  - (8) Site maintenance (including snow and mud removal);
  - (9) Trash and waste removal and disposal;
  - (10) Fire protection/fire fighting services and equipment;
  - (11) Monitoring and preventive maintenance of building structures and systems, including but not limited to:
    - (i) Heating/ventilation/air conditioning;
    - (ii) Plumbing;
    - (iii) Electrical;
    - (iv) Elevators;
    - (v) Boilers;
    - (vi) Fire safety system;
    - (vii) Security system; and
    - (viii) Roof, foundation, walls, floors.
  - (12) Unscheduled maintenance;
  - (13) Scheduled maintenance (including replacement of floor coverings, lighting fixtures, repainting);
  - (14) Security services;
  - (15) Management fees; and
  - (16) Other reasonable and necessary operation or maintenance costs justified by the contractor;
- (f) Repairs to buildings and equipment;
- (g) Alterations needed to meet contract requirements;
- (h) Other reasonable expenses; and
- (i) The fair market rental for buildings or portions of buildings and land, exclusive of the Federal share of building construction or acquisition

costs, or the fair market rental for buildings constructed with Federal funds exclusive of fee or profit, and for land.

**§ 900.71** What type of reserve fund is anticipated for funds deposited into a reserve for replacement of facilities as specified in § 900.70(c)?

Reserve funds must be accounted for as a capital project fund or a special revenue fund.

**§ 900.72** Who is the guardian of the fund and may the funds be invested?

- (a) The Indian tribe or tribal organization is the guardian of the fund.
- (b) Funds may be invested in accordance with the laws, regulations and policies of the Indian tribe or tribal organization subject to the terms of the lease or the self-determination contract.

**§ 900.73** Is a lease with the Secretary the only method available to recover the types of cost described in § 900.70?

No. With the exception of paragraph (i) in § 900.70, the same types of costs may be recovered in whole or in part under section 106(a) of the Act as direct or indirect charges to a self-determination contract.

**§ 900.74** How may an Indian tribe or tribal organization propose a lease to be compensated for the use of facilities?

There are three options available:

- (a) The lease may be based on fair market rental.
- (b) The lease may be based on a combination of fair market rental and paragraphs (a) through (h) of § 900.70, provided that no element of expense is duplicated in fair market rental.
- (c) The lease may be based on paragraphs (a) through (h) of § 900.70 only.

**Subpart I—Property Donation Procedures****General****§ 900.85** What is the purpose of this subpart?

This subpart implements section 105(f) of the Act regarding donation of Federal excess and surplus property to Indian tribes or tribal organizations and acquisition of property with funds provided under a self-determination contract or grant.

**§ 900.86** How will the Secretary exercise discretion to acquire and donate BIA or IHS excess property and excess and surplus Federal property to an Indian tribe or tribal organization?

The Secretary will exercise discretion in a way that gives maximum effect to the requests of Indian tribes or tribal organizations for donation of BIA or IHS