

Tribal Self-Governance Annual Consultation Conference

Legislative Updates
April 1, 2019
Geoffrey D. Strommer

Section 105(I) Leasing: Background

- Chronic underfunding of tribal facilities used to provide services
- M&I funds inadequate to fully fund these needs
- Section 105(I) of ISDEAA:
 - Tribally owned/leased
 - Used for the purpose of providing PFSA's in FA
 - Mandatory

Section 105(I) (Con't)

- *Maniilaq I*: Lease may be part of funding agreement; lease proposal subject to final offer process; IHS failed to respond within 45 days
- *Maniilaq II*: Section 105(I) and the regulations require that IHS fully fund reasonable, non-duplicative lease costs

Section 105(I) (Con't)

- Supplemental tribal clinics appropriation: Funds both VBC program increase and 105(I) lease compensation
- 105(I) leasing has spread throughout Indian Country
- In FY 2018, Congress appropriated \$11 million to tribal clinics, but IHS had to reprogram \$25 million more
- In FY 2019, Congress increased the tribal clinics appropriation by \$25 million, to \$36 million
- Recently IHS opened consultation on how to address a projected \$45 million need in 2019

Section 105(I) (cont.)

- Section 105(I) leasing will continue to increase
- IHS needs to administer Section 105(I) leases in a manner that allows the agency to better anticipate and budget for this expansion
- IHS should drop its efforts to seek a legislative “fix” similar to the one proposed in the Administration’s last two budget proposals—that nullifies 105(I)
- The ideal solution: a separate, indefinite appropriation for 105(I) like that for contract support costs