



# ISDEAA 105(I) Facility Lease Technical Assistance (TA) Guidebook Listening Sessions

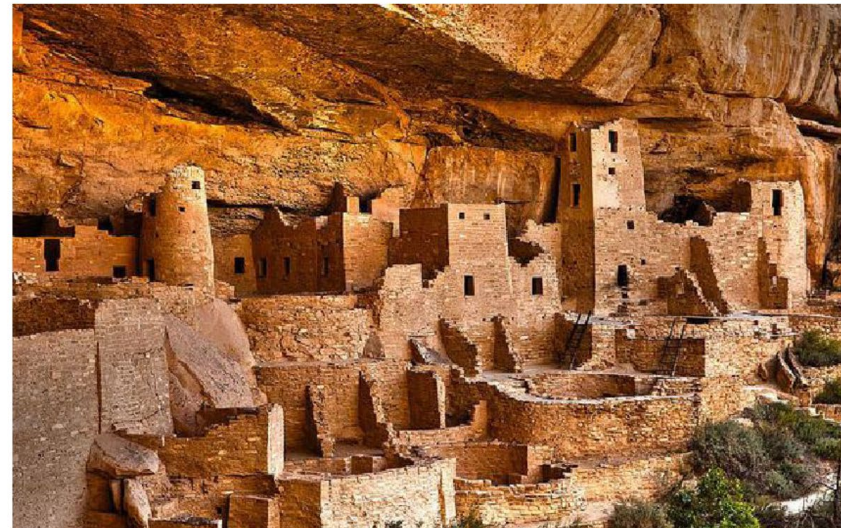
October 12 and 13, 2022

# TA Guidebook Overview

- Background
- What is a 105(l) Facility Lease?
- Eligibility requirements
- Types of compensation
- How to start the process
- Facility Lease Details
- Lease Process Overview
- Implementation thus far
- The Path Forward
- Questions and Comments

105(l) Facility Lease Program

## Technical Assistance Guidebook



INDIAN AFFAIRS

Office of the Deputy  
Assistant Secretary for  
Management


Office of Facilities,  
Property and Safety  
Management

prepared by  
Sedona Technologies

2022

# Background



- 6/19/20 – 7/1/20 – Tribal Listening Sessions.
  - 9/11/20 – National Policy Memorandum: Lease of Facilities.
  - FY 2021 Omnibus Appropriations Bill directed:
    - DOI and HHS to consult with Tribes regarding requirements for leases and how to implement a consistent and transparent process for payment of leases.
  - 3/30/21 – Published Indian Affairs Manual Chapter 80 IAM 7: 105(I) Lease of Facilities.
  - 8/27/21 – IA and IHS held a Joint Tribal Consultation.
  - August 2022 – Published ISDEAA 105(I) Facility Lease Technical Assistance Guidebook.
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# What is a 105(l) Facility Lease?



- Section 105(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5324(1)) provides that Tribes and Tribal Organizations (T/TOs) carrying out Federal functions under a self-determination contract or self-governance compact may enter into a lease agreement with Indian Affairs for the tribally owned or rented facility used to carry out those functions.



# What is a 105(I) Facility Lease? (Continued)

- Leases under Section 105(I) of P.L. 93-638:
  - ✗ Are not traditional leases.
  - ✓ Are facility cost agreements that compensate the T/TO\* owner for facility operational expenses associated with using the facility to administer or deliver P.L. 93-638 (ISDEAA) contracted/compacted services.
  - ✓ Are a statutory requirement.

\* Tribe or Tribal organization



# Eligibility Requirements

- T/TO must have one of the following:
  - (1) title to the facility, or
  - (2) a leasehold interest in the facility, or
  - (3) a trust interest in the facility.
- The facility must be occupied and used by the Tribe to carry out an ISDEAA contract or compact program, 100-297 grant function service or activity – this includes 477 programs incorporated in funding agreements.



# Types of Compensation




- Compensation must be based on one of the following:
  - Fair market rental (third party appraiser analysis); or
  - The cost elements listed in 25 C.F.R. § 900.70 (a-h) only; or
  - A combination of a fair market rental and cost elements.
- Costs must be reasonable and not duplicative.



# How to Start the Process




- Contact us at [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)
  - There is no standard application.
  - The lease proposal should confirm:
    - The Tribe holds title to, a leasehold interest in, or a trust interest in a specific facility.
    - The Tribe is using the facility to administer and deliver services under an approved ISDEAA PFSA. List the PFSAs in each facility.
    - The PFSA must be in an approved ISDEAA Self-Determination contract, Self-Governance compact, or a Public Law 100-297 grant.
    - The type of compensation the Tribe is seeking.
    - The address of the facilities for which the Tribe requests lease compensation.
    - The contact information for the Tribal representative.
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# Facility Lease Details



Items that need to be included in the facility description:

- The location and address.
  - An architectural floor plan that shows gross square footage for all floors.
  - The date the facility was placed into service.
  - The Certificate of Occupancy.
  - Recent photos of the facility's interior and exterior.
  - A recent inspection report of the condition of the facility if available.
  - A floor plan showing all the PFSA's, and any non-PFSA's, or if there are other tenants in the facility.
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# Facility Lease Details (Continued)




- A 105(I) lease can only compensate for the space associated with IA ISDEAA PFSA's.
- One lease per facility even if multiple PFSA's are operating in the same location.
- A proposal may contain multiple facilities.
- We have lease templates for both Self-Determination (Title I) and Self-Governance (Title IV).

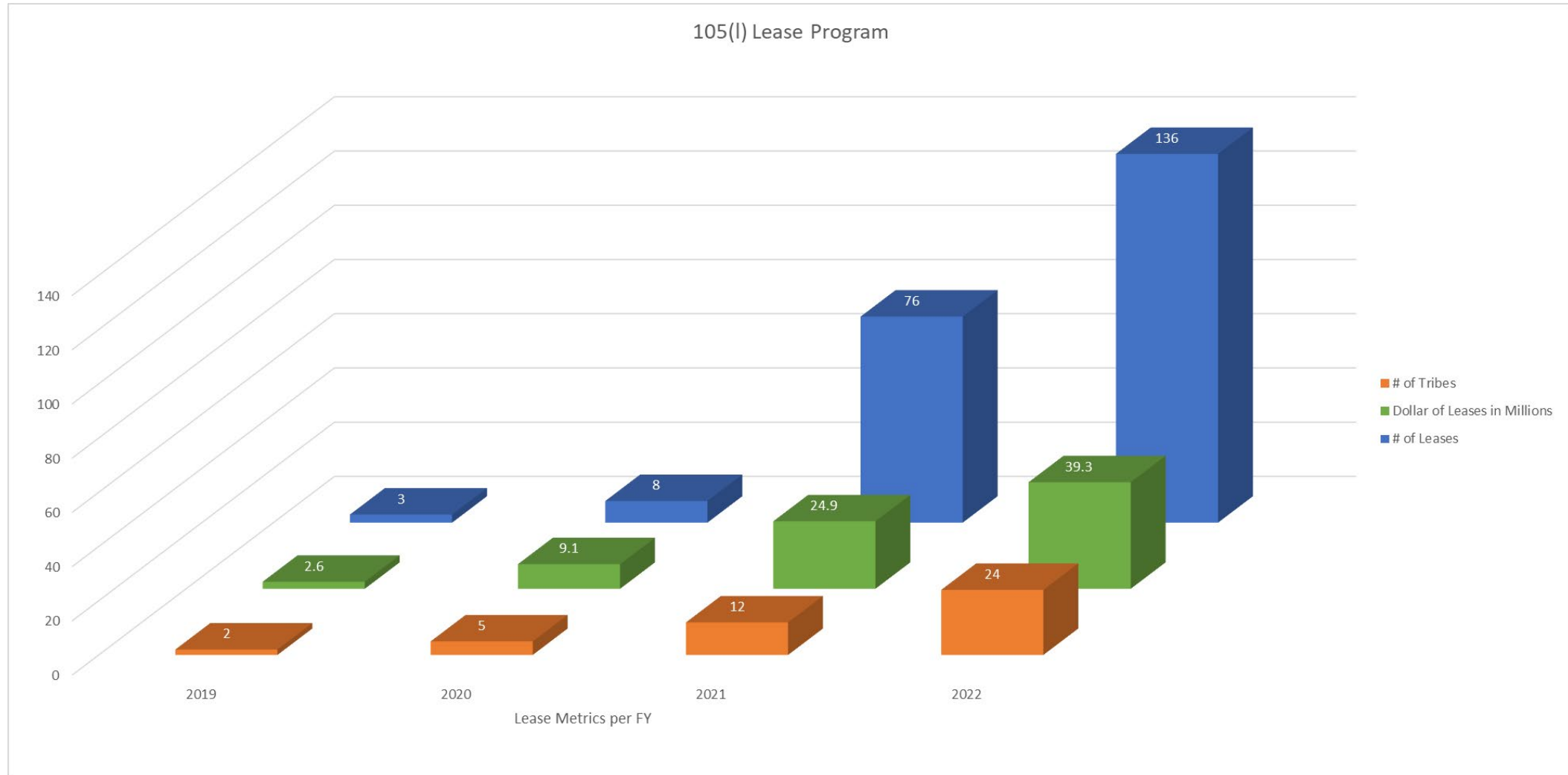


# Lease Process Overview



- Determine eligibility
  - Determining the method of lease compensation
  - Tribe submits proposal to [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)
  - IA to verify the funding agreement vehicle on which the lease is based
  - Review of facility documentation
  - Follow on (Technical Assistance) meetings as needed
  - CFO Certification
  - Legal sufficiency review
  - Review the draft lease
  - Tribal Resolution
  - Final lease execution and funding
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# ISDEAA 105(I) Lease Update



# The Path Forward

- Contact us at [ISDEAA105L@BIA.GOV](mailto:ISDEAA105L@BIA.GOV)
- <https://www.bia.gov/as-ia/ofpsm/brpl/105lp>
- Published a Guidebook
- Provide Technical Assistance
- Workshop Sessions
- Peer to Peer Learning
- Continue to coordinate with IHS





# Questions and Comments

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# THANK YOU!

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