



The 105(I) lease: A powerful financing tool for Tribes.

Together with market participants, KeyBank has vetted the possibility of generating long-term financing through 105(I) leases. We believe this product could be a powerful financing tool for Tribes with Self-Governance or Self-Determination Contracts and Compacts — regardless of Tribe size or financial strength, and we encourage Tribes to explore opportunities to leverage this potential revenue stream.

KeyBank remains committed to improving the quality of life in the communities we serve. We recognize that many Native Americans, including those who live on reservations, face profound challenges, such as:

- Limited access to health care
- Inadequate public safety facilities
- Outdated school facilities

Indian Country infrastructure desperately needs improvement, and Section 105(I) leases can help provide funding for such improvements.

Introducing 105(I) leases

Section 105(I) of the Indian Self-Determination and Education Assistance Act (ISDEAA) outlines what are commonly referred to as 105(I) “leases.” These instruments are essentially long-term funding agreements for Tribal-owned or leased facilities.

Tribes with ISDEAA (Section 638) Contracts/Compacts have a significant opportunity to receive recurring annual payments from 105(I) leases with the U.S. Government through the:

- Bureau of Indian Affairs (BIA)
- Bureau of Indian Education (BIE)
- Indian Health Services (IHS)

Examples of facilities that may qualify include schools, judicial centers, health clinics, wellness centers, long-term care facilities, substance abuse treatment facilities, and staff quarters.

105(l) key qualifications¹

To qualify for a 105(l) lease for a facility, the facility must already be built, and the following criteria must be met:

1. The Tribe has title to, a leasehold interest in, or a trust interest in the facility.
2. The facility must be used for the administration and delivery of Programs, Functions, Services, or Activities (PFSA) under ISDEAA.

Legal obligation of the U.S. government

Based on the outcome of recent lawsuits brought by Tribes, it has been determined by courts that the federal government has an obligation to make lease payments based on the fair market value of the facility or applicable actual facility costs (such as principal and interest, operations and management, depreciation, reserve, etc.) or some combination of these elements.

Leveraging 105(l) leases

Tribes have a unique opportunity to raise long-term debt that can be repaid by 105(l) leases. Proceeds of such long-term debt need not be used for the building associated with the 105(l) lease but could be used for other infrastructure needs of the Tribe. 105(l) leases could be part of a security package that leverages either tax-exempt or taxable financing to provide funds. The tax status of this debt depends on factors such as how the debt proceeds are used.



Supporting Native America

KeyBank Native American Financial Services actively supports organizations that promote the best interests of Indian Country, including:

- National Congress of American Indians
- The National Center for American Indian Enterprise Development
- Native American Finance Officers Association
- National Indian Gaming Association

Let's get started

To start your 105(l) or learn about our tailored solutions for your Tribe's financial goals, contact us today.

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¹ https://www.usetinc.org/wp-content/uploads/2020/08/Facility-Lease-Request-under-105I-PPT-Final_6.25.20.pdf (page 4)

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