



# 105(l) Leases: A powerful financing tool for Tribes.

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:

- Restricted access to healthcare, clean water, and structurally sound homes
- Inadequate broadband service
- Inferior roadways

These problems number among issues cited in a 2021 letter from many Tribal organizations to members of Congress.<sup>1</sup> Indian Country infrastructure desperately needs improvement, and Section 105(l) leases can help provide funding for such improvements.

## Introducing 105(l) Leases

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

Tribes with 638 Contracts have a significant opportunity to receive recurring annual payments on 105(l) leases from the U.S. Government through:

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

### A lever for financial strength

Together with market participants, KeyBank vetted the possibility of long-term financing through 105(l) leases. We believe this product could be a powerful financing tool for tribes with 638 Contracts – regardless of Tribe size or financial strength, and we encourage Tribes to explore opportunities to leverage this potential revenue stream.



**70%**

of Native homes are in need of repair<sup>2</sup>

**48%**

of Tribal households lack access to clean water<sup>2</sup>



**40%**

of Tribal households lack broadband<sup>2</sup>

### 105(I) key qualifications<sup>3</sup>

To qualify for a 105(I) 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 services under ISDEAA.

### Legal obligation of the U.S. Government

The Federal Government has a legal obligation to make lease payments based on the fair market value of the facility or applicable facility costs (such as Principal and Interest, Operations and Management, depreciation, reserve, etc.) or some combination of these elements.

### Leveraging 105(I) Leases

Recent legislative changes create a unique opportunity to raise long-term debt that can be repaid by 105(I) leases. Proceeds of such long-term debt need not be used for the building associated with the 105(I) lease but could be used for other infrastructure needs of the Tribe.

### To learn more, contact:

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### 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



<sup>1,2</sup> [https://ncai.org/NCAI\\_Indian\\_Country\\_Infrastructure\\_Letter\\_-FINAL\\_Update-.pdf](https://ncai.org/NCAI_Indian_Country_Infrastructure_Letter_-FINAL_Update-.pdf)

<sup>3</sup> [https://www.usetinc.org/wp-content/uploads/2020/08/Facility-Lease-Request-under-105I-PPT-Final\\_6.25.20.pdf](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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