

How to Create Partnerships to Advance Tribal Energy Projects: The Spokane Indian Housing Authority Example

John Clancy
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Project Partners

- ▶ Spokane Indian Housing Authority
- ▶ Spokane Tribe of Indians
- ▶ Sovereign Power
- ▶ Department of Energy, Office of Indian Energy
- ▶ HUD Technical Assistance Program
- ▶ Solar general contractor
- ▶ GRID Alternatives – labor subcontractor and training
- ▶ Solar tax investor
- ▶ Tribal Solar Accelerator Fund

HUD ONAP Training/Technical Assistance

- ▶ TA was utilized to scope out potential projects and funding sources (including use of DOE EERE Tribal Energy Grant and tax credit financing)
- ▶ Follow-up TA was used to develop plans for implementation of project, including strategy to seek assistance from Tribal Solar Accelerator Fund

HUD ONAP Training/Technical Assistance Process

- ▶ The TDHE sends regional coordinator a Request for Training/Technical Assistance. To get the form, go to http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/training and click on the link “Technical Assistance Request Form”
- ▶ HUD contacts one of the authorized T/TA providers.

Financial Structure of Project

- ▶ DOE EERE Tribal Energy Grant
- ▶ Tax Credit Funding
- ▶ Tribal Solar Accelerator Fund

DOE EERE Tribal Energy Grant

- ▶ Community-scale energy generating systems (Topic Area 2)
- ▶ \$1 million grant
- ▶ Approximately \$2.013 million project
- ▶ 50% required non-federal cost share

Meeting DOE Cost Share Requirement

- ▶ Tax Investor
- ▶ Shared value of 30% investment tax credit with SIHA and Tribe
- ▶ Remaining over \$400,000 required to be paid back to investor

Meeting Remaining \$400,000+ Cost Share

- ▶ Tribal Solar Accelerator Fund
 - ▷ Wells Fargo funding
 - ▷ Administered by GRID Alternatives
- ▶ Funding for remaining amount plus cost of operation and maintenance
- ▶ TSAF funding used to pay investor back through power purchase agreement and final buy-out

Use of Limited Liability Company Partnership with Investor

- ▶ 99% ownership by investor
- ▶ 1% ownership by SIHA and Tribe
- ▶ SIHA contributes grant to LLC
- ▶ Investor contributes remaining funds and shares tax credit value
- ▶ Power Purchase Agreements between LLC and SIHA and Tribe
- ▶ Prepayment of PPA amounts using TSAF funding
- ▶ After 5 years, remaining TSAF funding used to buy-out investor

AGREEMENTS THAT MADE IT WORK

LLC Operating Agreement

- ▶ Provides rules for Tribe's partnership relationship with investor.
- ▶ Capital contributions by Tribe and investor.
- ▶ Covers both construction and operation & maintenance.
- ▶ Sets cash flows to investor and Tribe.
- ▶ Rights to sell and purchase investor's interests.

Documenting LLC's Ownership and Access

- ▶ Monetizing tax credits requires a lease or permit to establish the LLC's control of the solar facility for tax purposes.
- ▶ Lease: BIA Part 162 Leasing Regulations
 - ▷ Include Special Provisions for Wind and Solar Resource Leases.
 - ▷ Still Require BIA approval of all leases.

Documenting LLC's Ownership and Access

- ▶ Permits avoid BIA approval process. According to 25 C.F.R. 162.007, they generally:
- ▶ Do not grant a legal interest in Indian land;
- ▶ Are of shorter terms than leases;
- ▶ Give permittee has a non-possessory right of access, not a right of possession or right to “limit or prohibit access by others;”
- ▶ Are revocable “at any time.”

Design-Build Contract

- ▶ The LLC, owned by the Tribe (1%) and the Investor (99%), enters into a contract with the Design-Builder to install the system
- ▶ AIA A141 Standard Form of Agreement Between Owner and Design-Builder
- ▶ Addresses among other things:
 - ▷ Federal Procurement Requirements
 - ▷ Subcontracting, employment and training opportunities for tribal members
 - ▷ Warranties

Power Purchase Agreement

- ▶ Used to demonstrate that LLC is operated as a business and to pay back investor
- ▶ Prepayment using TSAF funds

Interconnection and Net Metering Agreements

- ▶ Allow systems to interconnect to grid
- ▶ Provide retail credit for the energy produced by the solar facilities when not used on site



Spokane Tribe Administration Building

Photo courtesy Spokane Indian Housing Authority



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Spokane Tribe Sockeye Housing

Photo courtesy Spokane Indian Housing Authority



Spokane Tribe Fish Hatchery

Photo Courtesy Spokane Indian Housing Authority



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Spokane Tribe Senior Housing

Photo courtesy Spokane Indian Housing Authority