# How to Create Partnerships to Advance Tribal Energy Projects: The Spokane Indian Housing Authority Example John Clancy July 29, 2020



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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 GODFREY KAHNsc.

# HUD ONAP Training/Technical Assistance Process

The TDHE sends regional coordinator a Request for Training/Technical Assistance. To get the form, go to <u>http://portal.hud.gov/hudportal/HUD?src=/progr</u> <u>am\_offices/public\_indian\_housing/ih/codetalk/tr</u> <u>aining</u> 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

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### 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 buyout 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





#### Spokane Tribe Sockeye Housing

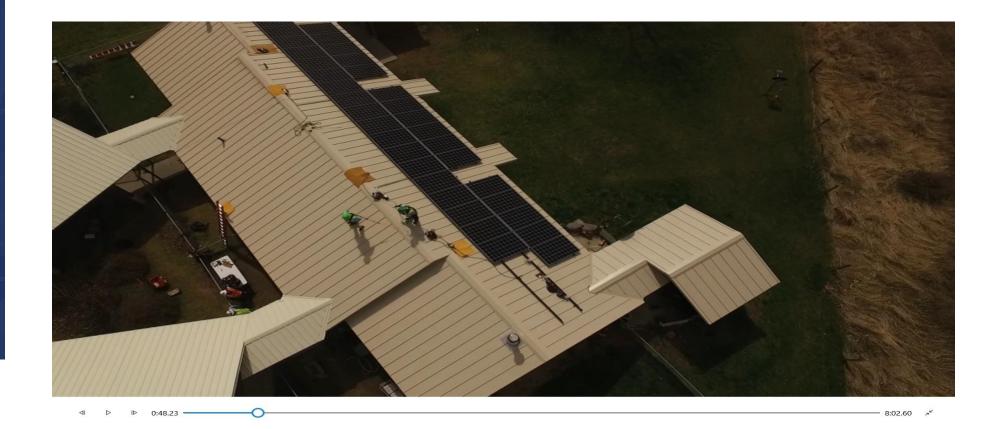
Photo courtesy Spokane Indian Housing Authority



#### Spokane Tribe Fish Hatchery

Photo Courtesy Spokane Indian Housing Authority





#### **Spokane Tribe Senior Housing**

Photo courtesy Spokane Indian Housing Authority