

Diligence Questionnaire: Tribal Involvement in Data Center Development



U.S. DEPARTMENT
of ENERGY

Office of Indian Energy
Policy and Programs

Initial Screenings

The following diligence questionnaire is intended to equip developers with questions to ask as they consider potential partnerships with Tribal governments and Tribal organizations.

This Questionnaire is intended for use during or before initial screening conversations with Tribes, noting many key details and agreements will be refined as projects progress.

Tribal Governance, Capacity, & Engagement

- | | |
|--------------------------|---|
| ☐ | What interests the Tribe or Tribal business in this project? |
| ☐ | How can the data center project contribute to the Tribes' strategic objectives? |
| ☐ | Which Tribal entities (government, enterprise, utility, Tribal Energy Development Organization, LLC) might be interested in the project? |
| ☐ | Can you provide specific points of contact for each of the Tribal entities that expect to be involved with the project? |
| ☐ | What is the Tribes' experience with infrastructure, energy, or large-scale real estate projects? Does the Tribe have existing relationships with external subject matter experts? |
| ☐ | Has the Tribe previously partnered with private developers? In what capacity (land lease, services)? What type of financial and business arrangement would most interest you? |
| ☐ | What tax structures or considerations apply to projects located on Tribal lands? How might Tribal, federal, or state tax treatment differ from off-reservation development? |
| ☐ | What Tribal review or decision-making processes are typical throughout infrastructure projects such as these, and what timelines should developers expect? |
| ☐ | What Tribal laws, regulations, or ordinances govern the use of these lands? How do such laws coalesce or contrast with local, state, or federal laws? |
| ☐ | When is the next election cycle, and could changes to Tribal leadership impact the project? |
| ☐ | Does the Tribe have a willingness to waive and entertain federal dispute forums? |

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Site Overview & Readiness

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|--------------------------|---|
| ☐ | Are there specific land areas that should be considered for development? If so, what is their general location and approximate acreage? |
| ☐ | What is the land ownership status (fee, restricted fee, trust, allotted)? |
| ☐ | Are there known constraints related to access, topography, or surrounding land use? |
| ☐ | What cultural significance does the land and its resources hold? |
| ☐ | Are there existing roads or easements? |

Power & Infrastructure

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|--------------------------|---|
| ☐ | What kind of primary energy resources (natural gas, coal, solar, wind), storage, and distributed energy resources are locally available to support the project? What power infrastructure does the Tribe own? What agreements does the Tribe have to own or operate power infrastructure? |
| ☐ | How much firm/committed capacity (MW) is currently available? Is there potential for added future capacity? |
| ☐ | What electric power resources are currently available to support a data center on Tribal land, and what constraints or conditions (location, timing, infrastructure upgrades, or interconnection requirements) would affect access to that power? |
| ☐ | What transmission and distribution infrastructure (transmission lines, substations, distribution facilities) is currently available near the site? Would new infrastructure be required? |
| ☐ | Is the Tribe interested in grid-connected, behind-the-meter, off-grid, or bridge power solutions? |
| ☐ | Are there Tribal utility authorities, partnerships with off-reservation utilities, or sovereignty considerations that developers should understand early in planning? |

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Water & Natural Resource Considerations

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|--------------------------|--|
| ☐ | What water resources are locally available, and what governance or allocation considerations apply? |
| ☐ | Are there particular water uses or protections (cultural, subsistence, environmental, economic) that are important for us to consider? |
| ☐ | Are there known water scarcity concerns? |
| ☐ | Are there seasonal or long-term considerations related to water availability or quality that the Tribe believes are relevant? |
| ☐ | Does the Tribe operate its own air quality program under the Tribal Authority Rule (TAR) of the Clean Air Act? |
| ☐ | Are there Tribal-specific air quality standards, permitting processes, or enforcement mechanisms developers should be aware of? |

Community & Workforce Alignment

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|--------------------------|---|
| ☐ | What community priorities should developers be aware of as we evaluate this site? |
| ☐ | What are the key goals for the Tribe regarding economic development at this site? What developer efforts would make for a more impactful investment? |
| ☐ | Are there workforce considerations (local hiring interest, training programs, employment goals) that may be relevant during construction or operations and maintenance (O&M)? |
| ☐ | Are there Tribal businesses that could support construction, energy access and power generation, or O&M? |
| ☐ | How can we partner with local Tribal Colleges and Universities or technical schools to create a talent pipeline? |
| ☐ | Has the Tribe conducted, or does it plan to conduct, community consultation and informational sessions regarding the proposed development? |

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The next slides detail questions developers should be asking in advanced conversations if they are serious about partnering with Tribes.

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Advanced Discussions

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Tribal Engagement

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| ☐ | What is the proper protocol and timeline for initiating formal consultation with the Tribal Council? |
| ☐ | What ongoing engagement mechanisms does the Tribe expect during construction and O&M? |
| ☐ | What is the best way to keep the community informed and provide opportunities for feedback? |
| ☐ | Does the Tribe have a designated Tribal Historic Preservation Officer (THPO) or Cultural Resource Department that we should consult with regarding the site? |

Project Timeline, Planning, & Flexibility

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| ☐ | What level of participation does the Tribe expect for site evaluation and site studies (site feasibility assessment, NEPA, Section 106)? |
| ☐ | Are phased development or modular expansion approaches preferred? |
| ☐ | How flexible is the Tribe if power availability or permitting timelines shift? |

Power Delivery & Energy Strategy (If additional power or infrastructure required)

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| ☐ | Is the Tribe interested in owning or co-owning generation or power infrastructure? |
| ☐ | Are power purchase agreements, service agreements, or hybrid energy arrangements preferred? |
| ☐ | How are resource adequacy, redundancy, and long-term reliability addressed? |

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Land Status, Leasing, & Permitting

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| ☐ | What specific land parcels are under consideration, and what approvals are required? |
| ☐ | Will Bureau of Indian Affairs (BIA) review be required, or does the Tribe operate under HEARTH (Helping Expedite and Advance Responsible Tribal Home Ownership) Act leasing authority? |
| ☐ | What leases, rights-of-way, or easements are expected for power, water, pipelines, fiber, and access roads? Are there existing protocols or agreements we should know about development in your territory? |
| ☐ | How can we ensure we safeguard historic properties of religious and cultural significance, such as burial grounds, ceremonial areas, or traditional cultural places, on or near the proposed site? |

Natural Resource Impacts & Mitigation

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| ☐ | What are your expectations for environmental or cultural reviews (NHPA, Section 106)? |
| ☐ | What long-term resource risks are of greatest concern to the Tribe? |
| ☐ | Which mechanisms should be prioritized to mitigate risks associated with water and natural resource impacts? |
| ☐ | When and to what extent will the site be accessible for site readiness assessments? |

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Financial Structure & Risk Allocation

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| ☐ | Is the Tribe interested in investing in the data center? What is the Tribe's proposed access to capital? What are the Tribe's expectations for acquiring partial or majority ownership in the data center's platforms, and if the Tribe is interested in co-investment, what level of active involvement would be desired? |
| ☐ | If the above question is no, is the Tribe seeking fixed lease payments, revenue sharing, equity, or a hybrid financial model? |
| ☐ | Is the Tribe supported by legal, financial, or technical advisors that we should also connect with? |
| ☐ | Do you have any specific requests regarding the project's financial reserves for natural resource mitigation and contingencies for remediation? |

Workforce & Co-Benefits

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|--------------------------|---|
| ☐ | What workforce initiatives or co-benefits is the Tribe interested in? |
| ☐ | Are there requirements to the Tribe's goods and services? |
| ☐ | Are there existing Tribal workforce or training programs that developers should be aware of? |
| ☐ | Are there specific Tribal businesses or local vendors that should be prioritized for project procurement? |
| ☐ | Does the Tribe prefer fixed-price, performance-based, or hybrid models for O&M contracts? |

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