

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

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July 29, 2020

# 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 Office of Indian Energy 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](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 Office of Indian Energy Tribal Energy Grant
- ▶ Tax Credit Funding
- ▶ Tribal Solar Accelerator Fund

# DOE Office of Indian Energy 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 (TSAF)
  - ▷ 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 (LLC) 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