



U.S. DEPARTMENT OF
ENERGY

Indian Energy Purchase Preference Overview

Office of Indian Energy Webinar | July 19th, 2023



Overview

- **What is the Indian Energy Purchase Preference?**
- **How do Federal Agencies buy electricity?**
 - Market types
 - Types of purchases
- **What policies are driving Federal Agencies to purchase more carbon pollution-free electricity?**
- **What is DOE doing to support implementation of the preference?**
- **Summary & Further Inquiries**

Indian Energy Purchase Preference Overview

What is the Tribal Energy Purchase Preference?

EPAcT 2005 Establishment of the Preference

25 U.S.C. § 3502(d)
(Sec. 503 of the Energy Policy Act of 2005)

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

(2) In carrying out this subsection, a Federal agency or department shall not
(A) pay more than the prevailing market price for an energy product or byproduct; or
(B) obtain less than prevailing market terms and conditions.

Note: Projects can be located anywhere.

2012 DOE Procurement Policy Guidance

Secretary Chu issued Department guidance for implementing 25 U.S.C. § 3502(d):

“...the Department will give preference to tribes and tribal majority-owned business organizations for the *purchase of electricity produced by renewable resources, renewable energy products, and renewable energy by-products.*”

Renewable Resources

Wind, solar, geothermal, bioenergy, incremental hydropower

Renewable Products

Renewable fuel or feed sources, such as woody biomass and biofuels

Renewable By-Products

Environmental attributes generated by renewable energy and sold in markets (e.g., renewable energy certificates or RECs/EACs, greenhouse gas credits)

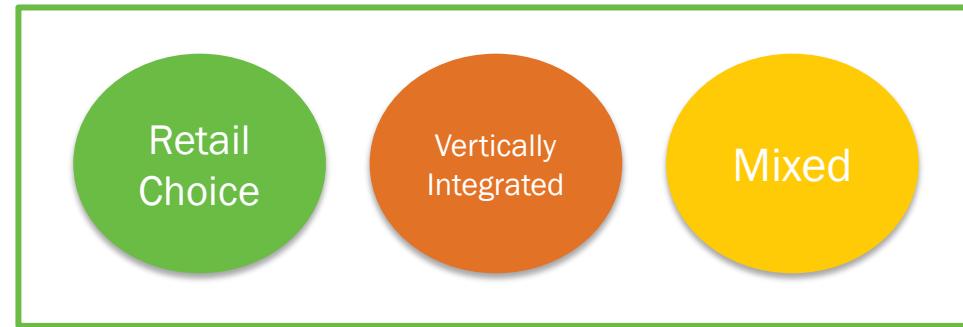
Indian Energy Purchase Preference Overview

How does the Federal Government purchase electricity?

Electricity Market Types Determine Government Options

Options for purchasing electricity and inclusion of Preference in federal procurements will depend on site agency location.

Types of Markets

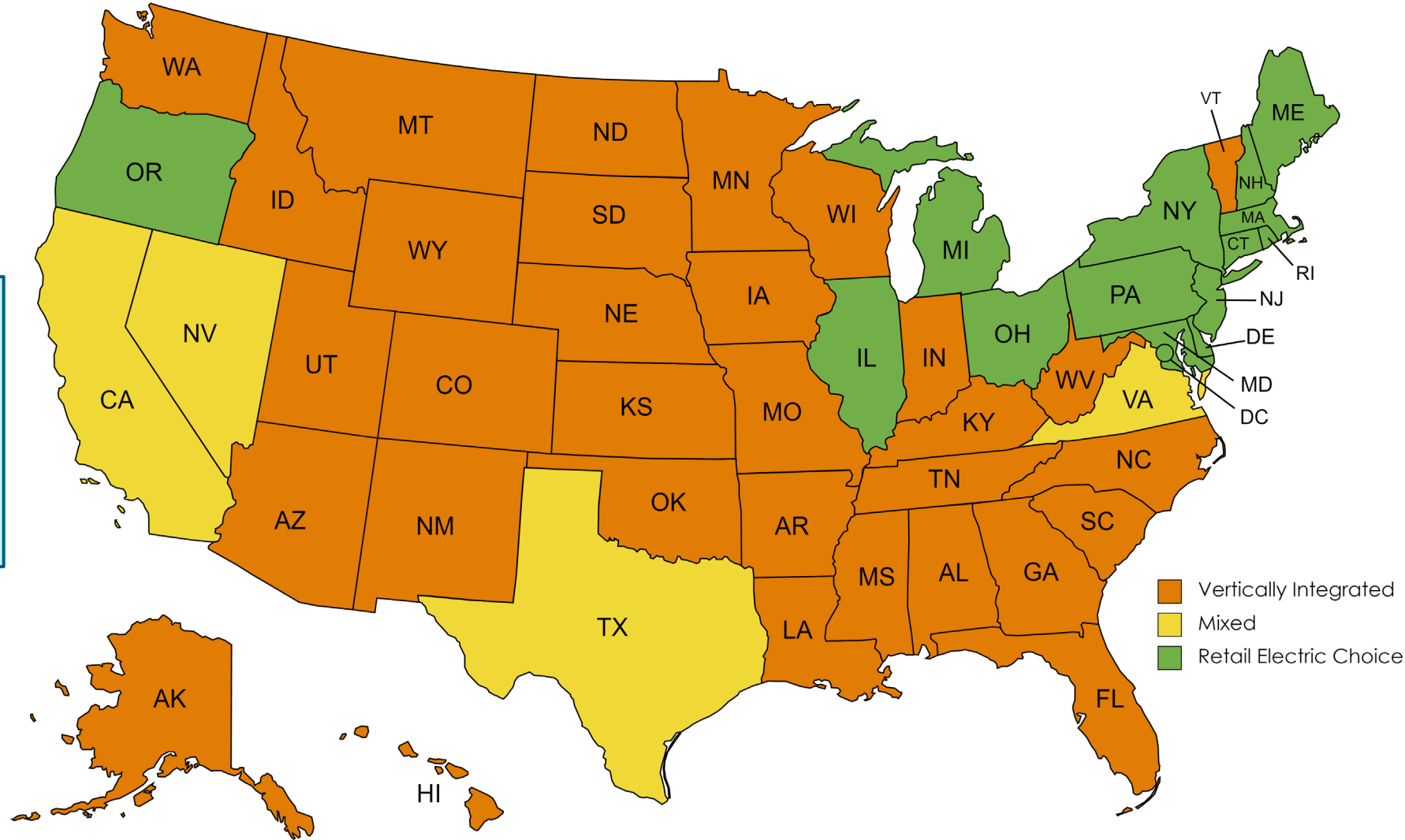


Types of Purchases



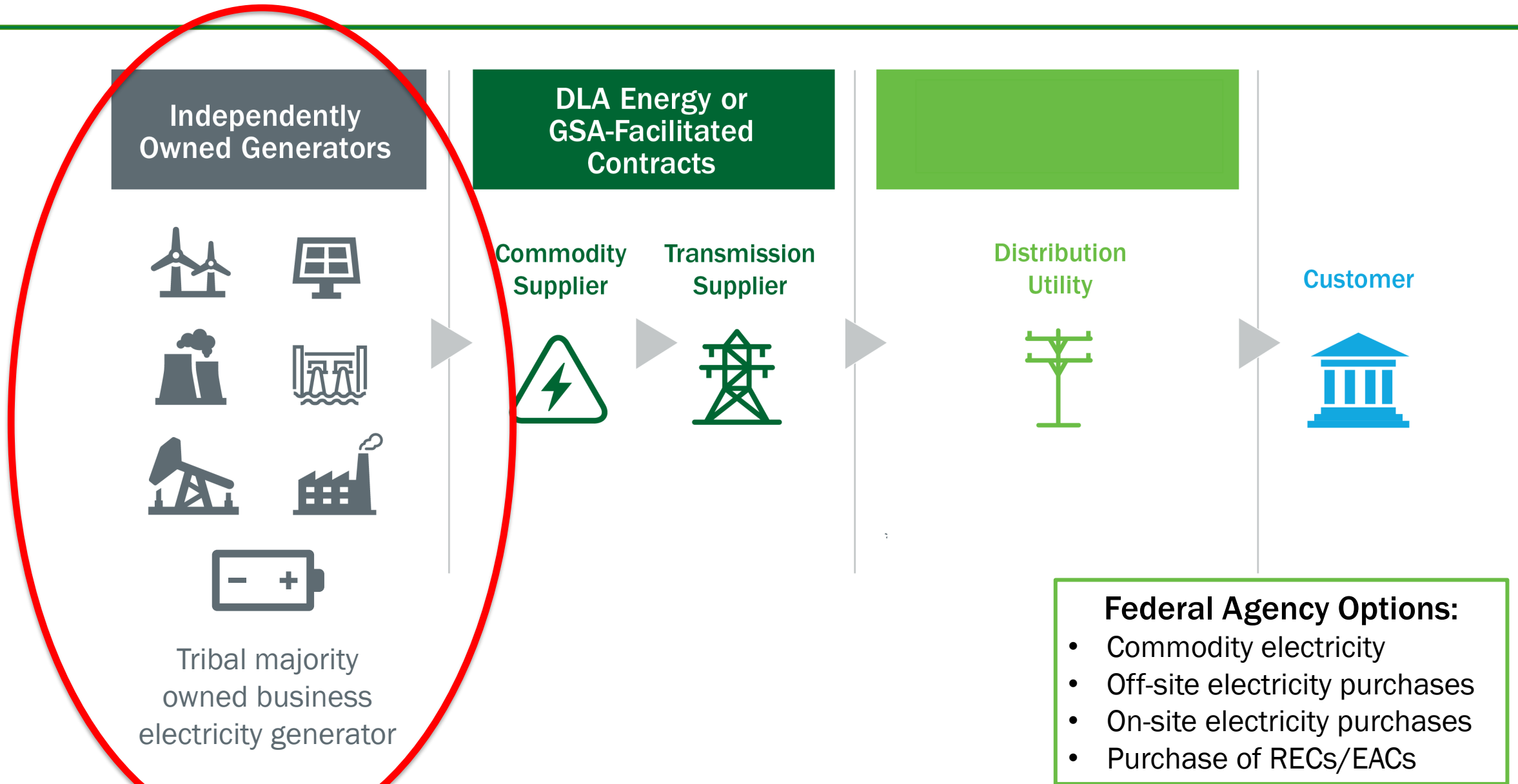
Electricity Market Types by State

Pursuant to 40 U.S.C. § 591 the Federal Government must purchase electricity in a manner consistent with state law governing the provision of electric service.



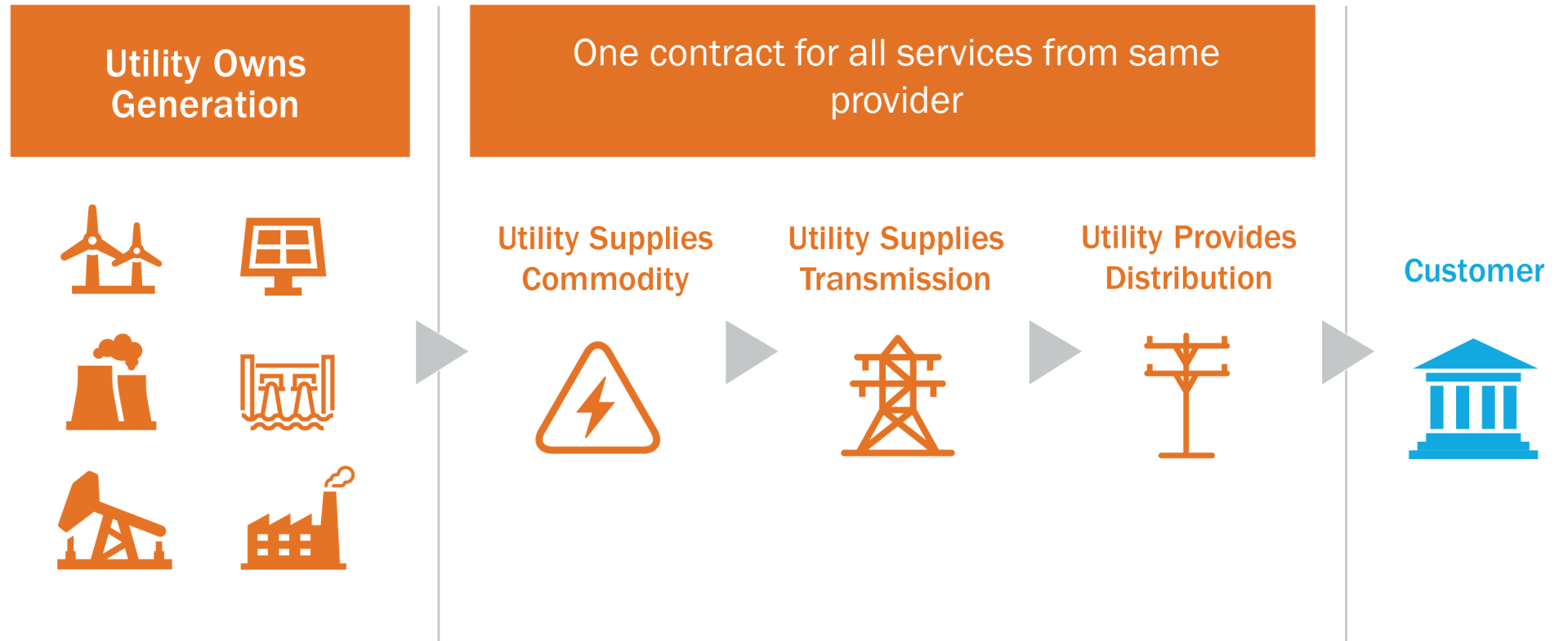
Note: This map is subject to change.

Overview of Retail Electric Choice Markets



Vertically Integrated Market

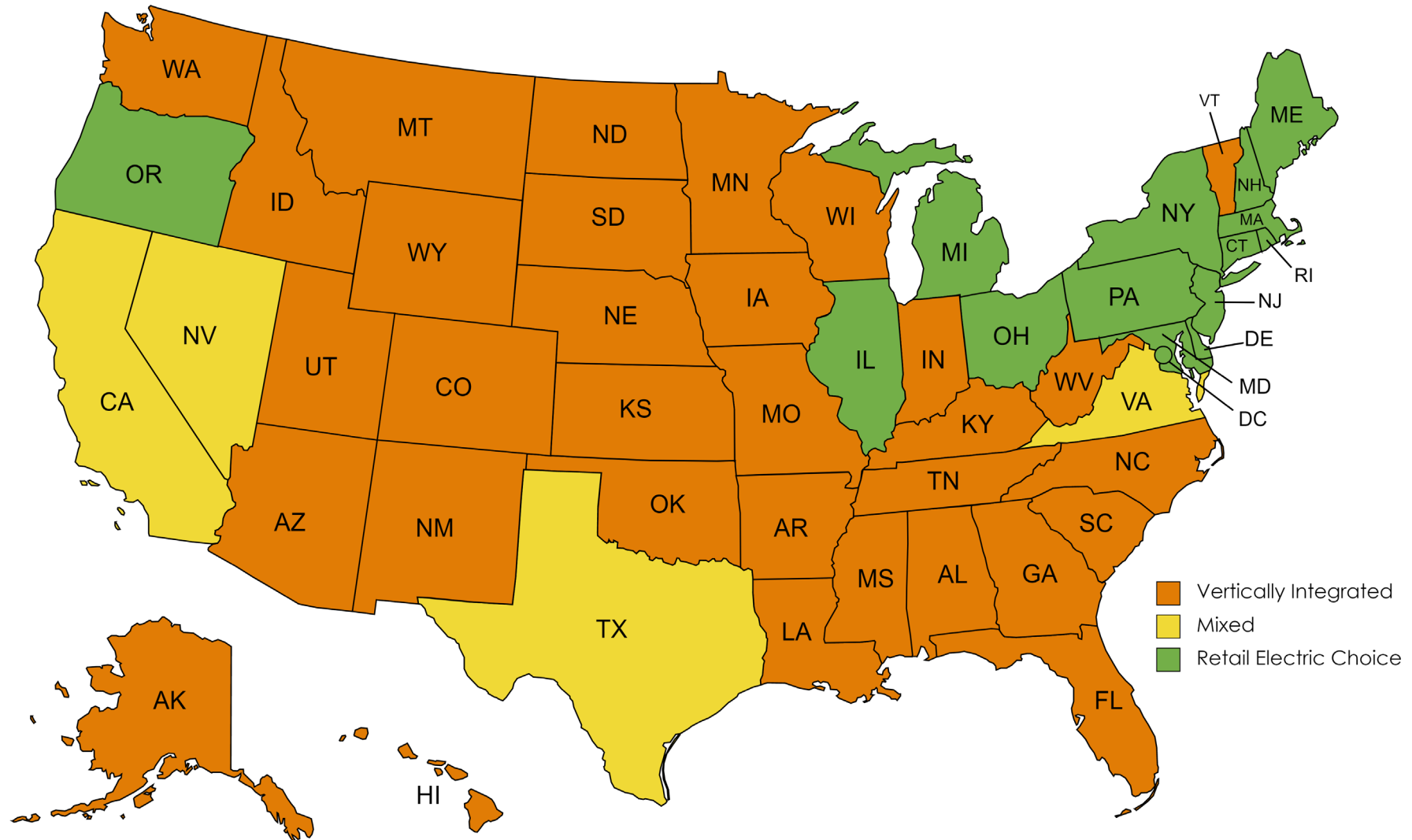
In certain circumstances* the tribal majority owned generator may be able to sell electricity to a federal agency through the utility.



Federal Agency Options:

- *Off-site electricity purchases
- On-site electricity purchases may be limited
- Purchase of RECs/EACs

Mixed Markets - Could be Retail Choice or Vertically Integrated

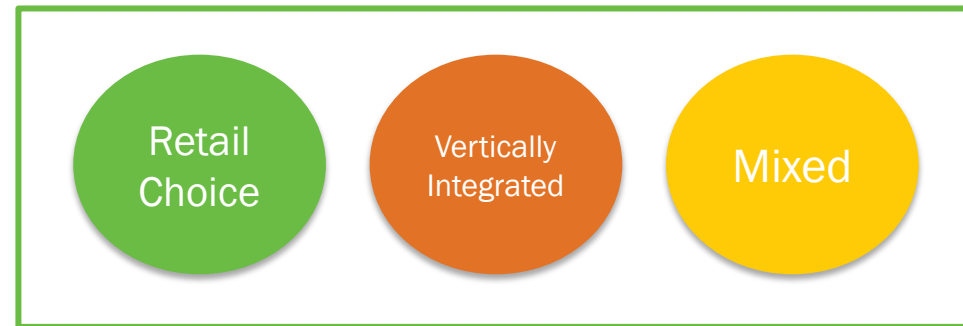


Note: This map is subject to change.

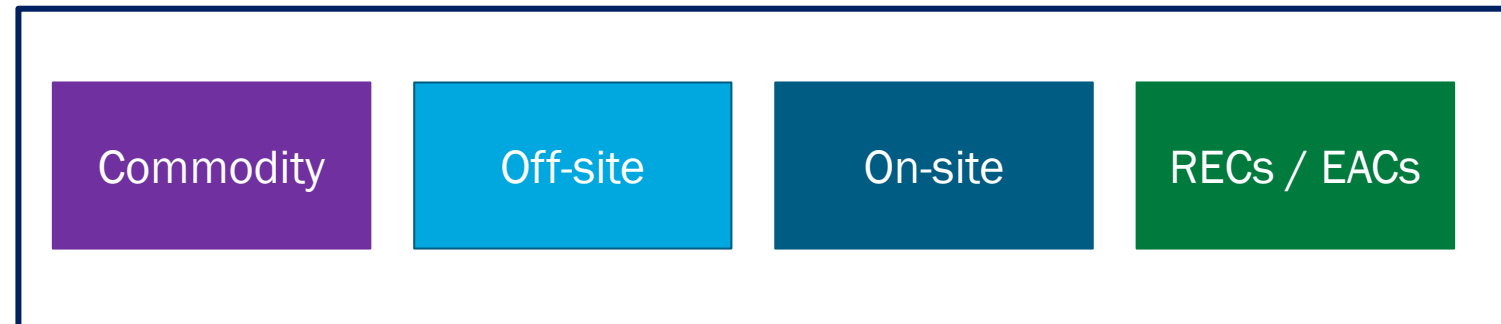
Recap: Electricity Market Types Determine Government Options

Options for purchasing electricity and inclusion of Preference in federal procurements will depend on site agency location.

Types of Markets



Types of Purchases



Commodity Electricity Contracts – Retail Choice Markets Only

TMOB* Electricity Supplier

- Re-sells purchased electricity or constructs, owns, operates, and maintains generation
- May be able to take advantage of tax incentives

Agency

- Buys electricity for a specified term
- 5 years or less

Key Considerations

- GSA and DLA Energy conduct these procurements on behalf of federal customers
- Reverse auction format

TMOB* = Tribal Majority Owned Business

Off-Site Power Contracts

TMOB Electricity Supplier

- Re-sells purchased electricity or constructs, owns, operates, and maintains the generator
- May be able to take advantage of tax incentives

Agency

- Buys electricity for a specified term
- Civilian agencies have 10-year contract authority
- DoD has 30-year contract authority
- Power marketing administrations (PMAs) have longer authority

Key Considerations

- Third-party sales of electricity must be legal in state/utility territory
- Can the power be delivered?

Federal On-Site Distributed Energy Procurement Options

On-Site Power Contracts

TMOB Electricity Supplier

- Constructs, owns, operates, and maintains the generator on the agency's site
- May be able to take advantage of tax incentives

Agency

- Hosts generation & buys electricity for a specified term
- Civilian agencies have limited long-term contract authority
- DoD has 30-year contract authority
- PMAs have longer authority

Key Considerations

- Third-party sales of electricity must be legal in state/utility territory

Federal On-Site Distributed Energy Procurement Options

TMOB* REC/EAC Supplier

- Sells RECs/EACs from owned generation

Agency

- Buys RECs/EACs for specified time
- Typically, 5 years or less

Key Considerations

- No electricity associated with RECs/EACs—just the environmental attributes
- Good option if electricity cannot be delivered directly to agency

*TMOB = Tribal Majority Owned Business

Selling to the Federal Government

www.sam.gov

- **Searchable database of opportunities to sell to Fed Gov**
- **North American Industry Classification System (NAICS) codes are like keywords**
 - 221111 hydroelectric power
 - 221114 solar power
 - 221115 wind power
 - 221116 geothermal power
 - 221118 other electric power



The screenshot shows the SAM.GOV website interface. At the top is the SAM.GOV logo with a stylized American flag. Below the logo is a navigation menu with links for Home, Search, Data Bank, Data Services, and Help. The main content area features the heading 'Contract Opportunities' with a 'Legacy Website' badge and the FBO logo. A paragraph explains that contract opportunities are procurement notices from federal contracting offices and lists types such as pre-solicitation, solicitation, award, and sole source notices. A link to grants.gov is provided for grant opportunities. At the bottom, there is a search bar with the example text 'e.g. W91QVN-17-R-0088, light bulbs' and a search button.

Indian Energy Purchase Preference Overview

What policies are driving the Federal Government to purchase more carbon pollution-free electricity?

Energy Policy Act of 2005 “Bonus” for Renewable Energy

EPA 2005 provides an incentive for Agencies to purchase renewable energy generation on federal land or Indian land.

Agencies receive double credit towards renewable energy goal for:

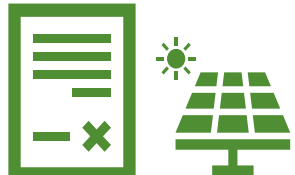
Electricity generated on:

- ✓ Federal land, or
- ✓ Indian land

And used by Fed Agency

Pursuant to 42 U.S.C. § 15852(c)

Federal Energy and Sustainability Goals and Requirements



Energy Act of 2020

- Agencies to use performance contracting to address at least 50% of energy conservation measures (ECMs) identified
- Agencies to implement all cost-effective ECMs identified within two years
- Federal Energy Management Program to establish a Federal Smart Building Program



Executive Order 14057

- 100% carbon pollution-free electricity (CFE) by 2030
- 100% net zero buildings, zero-emission fleets, 24/7 carbon pollution-free electricity
- Net zero federal government operations by 2050 or sooner



Climate Smart Building Initiative (CSBI)

- Agencies establish emissions reductions targets for performance contracting
- Increase on-site clean electricity generation
- Support plan to reduce emissions from Federal buildings by 50% by 2032

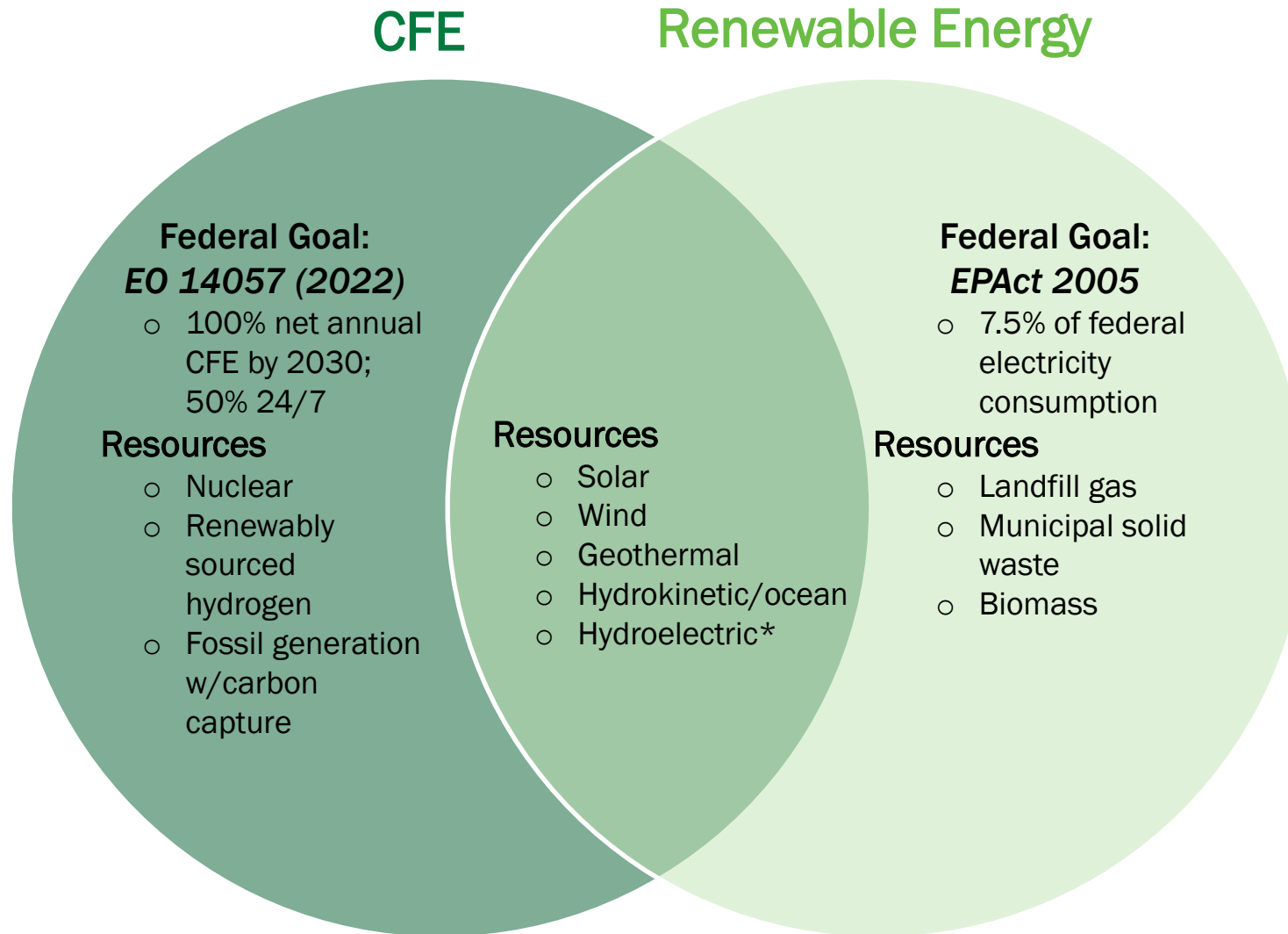


Federal Building Performance Standard

- Support achievement of net-zero emission for federal building portfolio
- Zero scope 1 emissions from on-site fossil fuel use in 30% of agency's federal buildings (by GSF) by FY 2030
- For fed-owned, covered facilities in U.S. and territories

Note: Descriptions are illustrative and not comprehensive.

CFE & Renewable Energy – Some Overlap, but not Identical



*All hydroelectric generation qualifies as CFE. New hydroelectric generation qualifies as renewable if its capacity has increased through either improved efficiency or an addition to the project.

Indian Energy Purchase Preference Overview

What is DOE doing to support implementation of the preference?

White House Council on Native American Affairs

NOVEMBER 30, 2022

FACT SHEET: Biden-Harris Administration Announces New Actions to Support Indian Country and Native Communities Ahead of the Administration's Second Tribal Nations Summit

- **Implementation of the Indian Energy Purchase Preference at Federal Facilities.** To ensure that investments in the clean energy economy reach Tribal lands, DOE—in coordination with WHCNA and with involvement from DOD and the General Services Administration (GSA)—will launch a new initiative to increase federal agencies' use of Tribal energy through purchasing authority established by statute. Title V of the Energy Policy Act of 2005 established for federal agencies a preference for purchasing electricity and other energy products from Indian Tribes and Tribal enterprises...

Commitments at Nov 2022 Tribal Nations Summit:

- DOE will conduct listening sessions with Tribal Nations to better understand the market conditions for Tribes and Tribal majority-owned businesses developing carbon pollution-free electricity (CFE)
- GSA will roll out RFI and conduct pilot to develop procurement strategies
- DOD will integrate the Indian Energy Purchase Preference into electricity procurement strategies
- Agencies will develop training and resources for Tribes and Tribal majority-owned businesses to foster technical expertise in the development of CFE projects, improve awareness of the Preference, and encourage partnerships for CFE development.

Indian Energy Purchase Preference Listening Session

- May 18, 2023, DOE, DOD, GSA, and WHCNAA co-hosted the Tribal Power Preference Listening Session
- Recording available at: <https://www.energy.gov/indianenergy/tribal-power-preference-listening-session>
- The goal of the session was to gain insight directly from Tribes, tribally owned businesses, tribal utilities, and tribal entrepreneurs regarding any interest, availability, development, or challenges associated with generating and selling electricity to the Federal Government using the Preference.

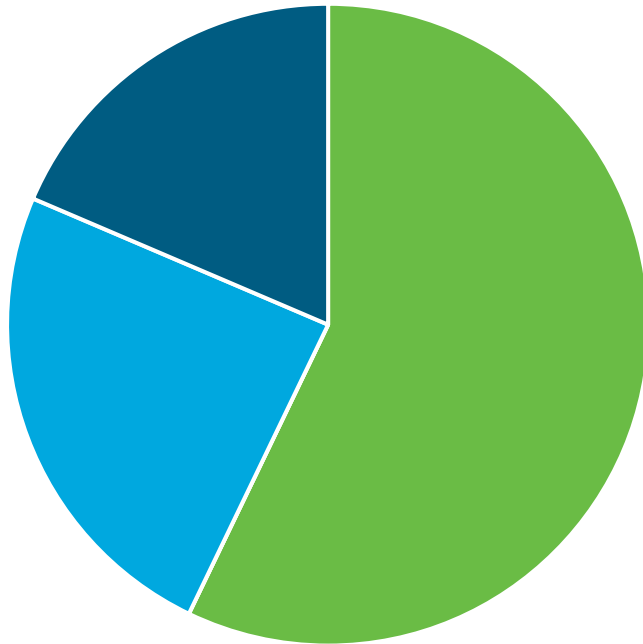


WHCNAA

The screenshot shows a YouTube video player for the "Tribal Power Preference Listening Session" by the DOE Office of Indian Energy. The video title is "Tribal Power Preference Listening Session" and the date is "May 18, 2023". The video thumbnail features a collage of images: a solar panel array, a wind turbine, and a herd of bison. The video player includes a "Watch later" button and a "Share" button. Below the video player, there is a "Watch on YouTube" button and a description: "DOE's Office of Indian Energy and Federal Energy Management Program (FEMP) in partnership with General Services Administration (GSA) and Department of Defense (DOD), and in coordination with the White House Council on Native American Affairs (WHCNAA), hosted a Tribal Power Preference Listening Session May 18, 2023. Office of Indian Energy".

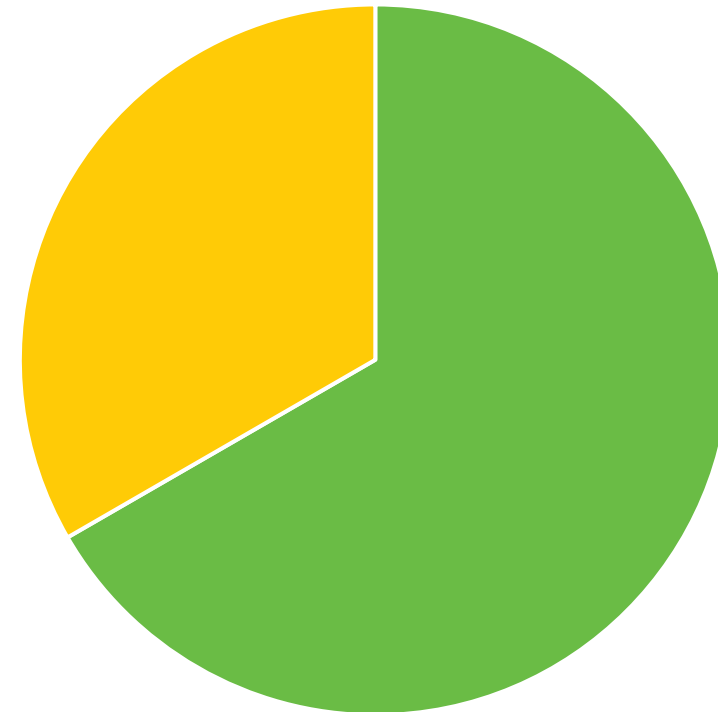
Polling Results

What kind of new energy projects are TMOBs planning to build in your community?



- Carbon pollution-free electricity (e.g. solar, wind, hydro)
- Fossil-based electricity
- Mix of both
- Not applicable

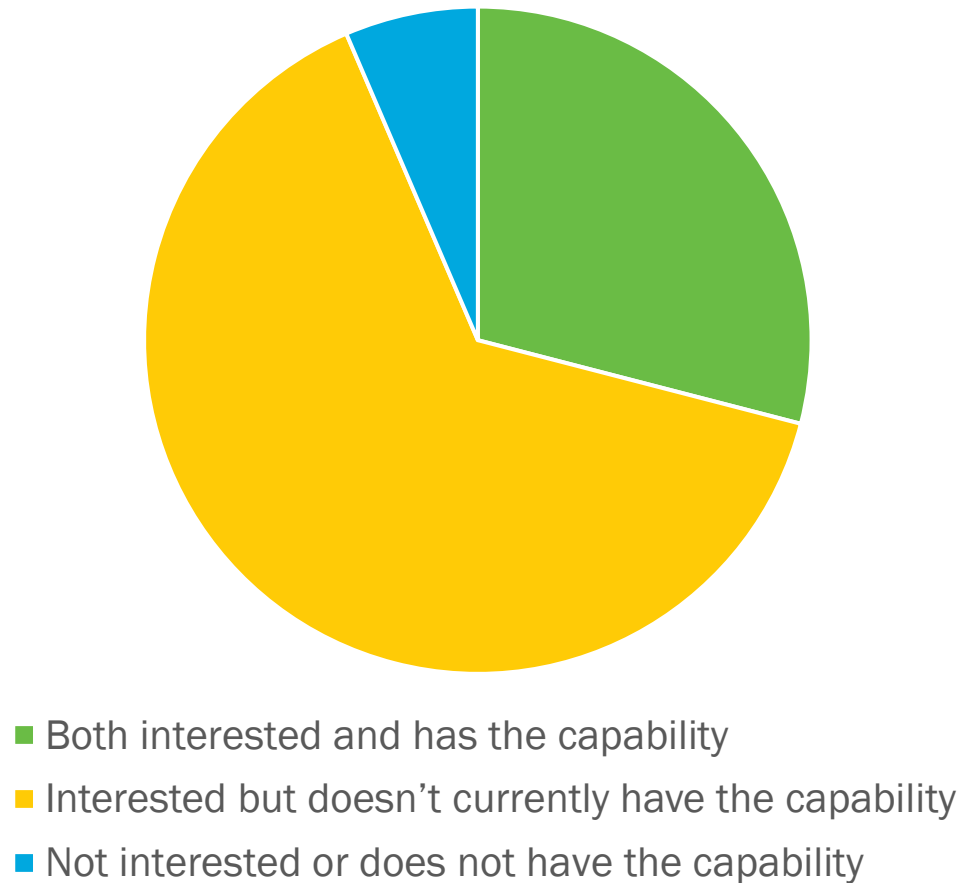
Are you aware of the Electricity Purchase Preference?



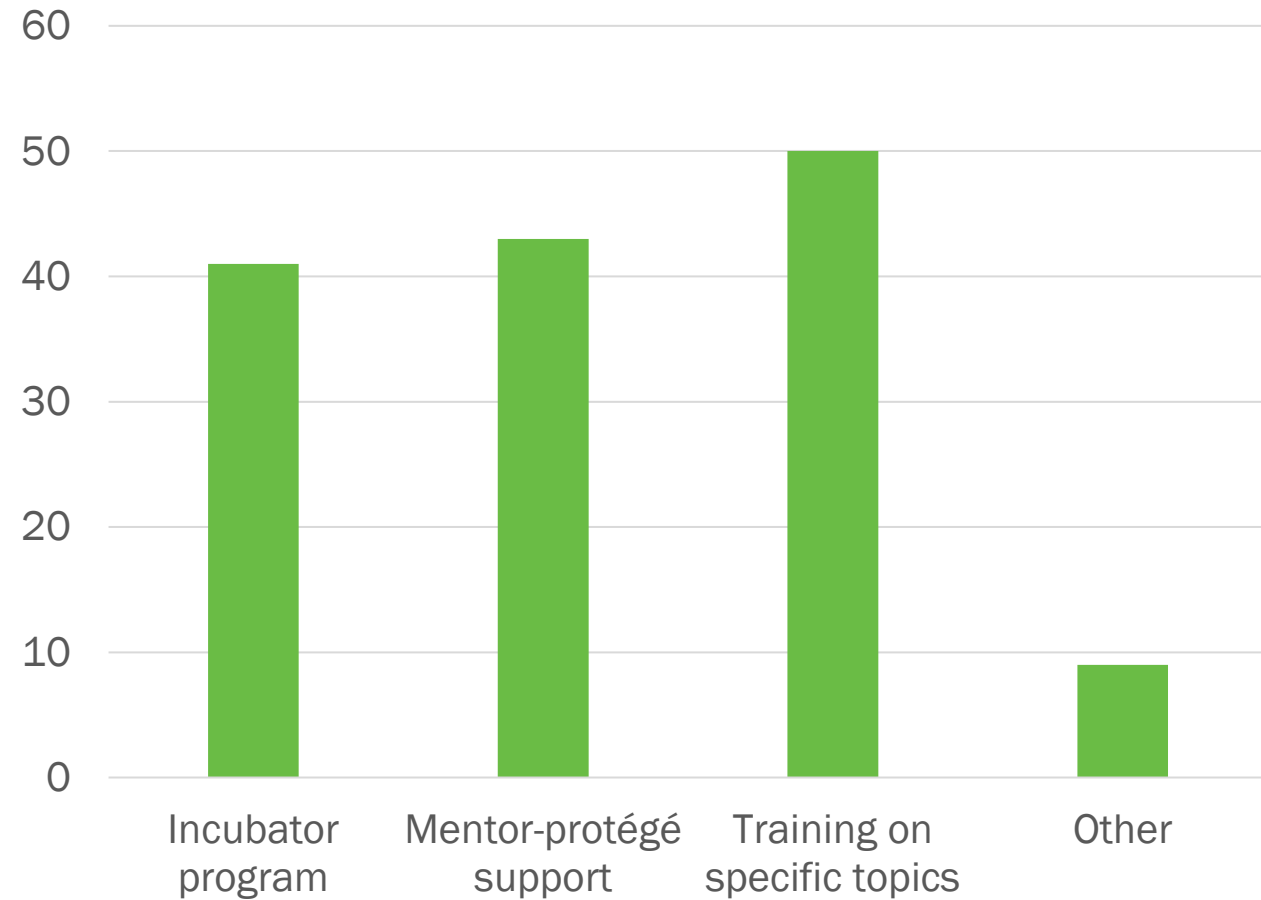
- No
- Yes

Polling Results

Does your community have the interest in and capability to sell CFE to the Federal Government?



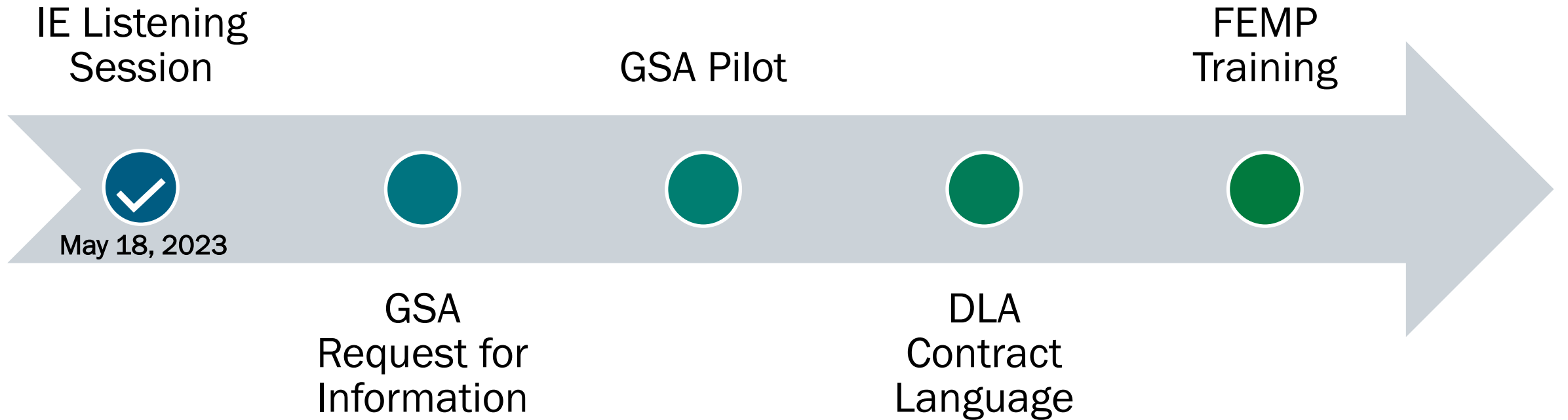
What resources would help tribal majority owned businesses sell electricity to the government?



Common Barriers Indian Energy Preference

- **Connection to transmission and third-party utilities**
- **Access to Capital**
 - Financing may not align with agency terms.
 - LPO projects currently cannot take advantage.
- **Contracting officers may be new to working with tribes and the policy.**
- **Tribal Organization are stretched to capacity**

Upcoming Activity



Summary

The Federal Government has increased its focus on purchasing carbon pollution-free electricity

- Tribal majority-owned businesses (TMOBs) selling energy, energy products, and energy by-products may receive a preference when competing for certain federal energy-related contracts

Market Type and Purchase Type Impact Options



DOE, GSA, DOD, and WHCNA are working to improve implementation of the tribal energy purchase preference

Thank you!

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Office of Policy
U.S. Department of Energy

Related FEMP On-Demand Trainings

[Decarbonization Considerations: Onsite Distributed Energy Projects and Offsite Purchases](#)
[Federal On-Site Carbon Pollution-Free Electricity \(CFE\) Purchase Contracts](#)
[Utility Industry Basics for Federal Agency Carbon Pollution-Free Electricity \(CFE\) Procurement](#)

Further Inquiries and Feedback

IndianEnergy@hq.doe.gov

- Email Subject: "Indian Energy Purchase Preference - [Your Tribe or organization name]"
- Contact information of requestor (name, role/title, email address, phone number, relevant websites)
- Relevant point(s) of contact within your tribe or tribal organization.
- Federal facility and location of the federal facility you are interested in selling power to, if applicable.
- Name and type of utility (tribal utility, investor-owned, public power (municipal) utility, cooperative, independent power producer) that connects you to the federal facility, if applicable.
- Ultimate goal (e.g. power purchase agreement with [Federal facility] for [X] MW).
- Status of the generation project (e.g., under development, under construction, initiating design, being permitted, assessing feasibility) and timeline for completion.
- Activities completed toward that goal (e.g., conversations initiated with the utility, power purchase agreement under negotiation).
- Barriers keeping you from that goal (e.g., power purchase agreement, financing, utility, policies).
- What are you hoping to gain from the requested assistance?
- Please provide any other relevant background or information.