



Indian Energy Purchase Preference Listening Session Questions and Answers

On May 18, 2023, the U.S. Department of Energy's Office of Indian Energy, along with the Federal Energy Management Program, hosted an [Indian Energy Purchase Preference Listening Session](#).

Note that “Indian Energy Purchase Preference” is also referred to as “Tribal Power Preference”.

Question	Answer
Are military bases eligible to pursue contracts with Tribal entities under the Indian Energy Purchase Preference policy?	Yes, the Department of Defense is pursuing Indian Energy Purchase Preference and typically can carry out 30-year contract agreements. These agreements can be advantageous to Tribal entities because they provide longer contract durations than other agencies, which may better align with financing for a project.
Are only existing power production facilities being considered for the Tribal Power Purchase pilots, or would new projects be considered knowing that the carbon-pollution free electricity would not be available until the project is constructed?	Existing and future power production facilities are being considered for the Tribal Power Purchase Pilots. The specifics of the opportunities will depend on the exact procurement opportunities.
Are Renewable Energy Credits and EACs being considered as attributes that could be purchased under the Indian Energy Purchase Preference? Could these be generated outside the market where the power is consumed by the Federal Government?	RECs are defined by DOE’s policy as energy byproducts and are therefore eligible to be purchased using the preference. However, for federal customers to be interested in purchasing the RECs, they will need to count towards the federal governments’ renewable and carbon pollution-free electricity goals. For RECs to count towards the Renewable Energy Purchase goal (42 U.S. Code § 15852) they must meet the definition in 42 U.S. Code § 15852(b). For RECs to count towards the Executive Order 14057 goal, they must meet the criteria in the Executive Order including being generated in the same balancing area as consumed, from generation placed in service 10/1/2021 or later, and from CFE generation as defined in the Executive Order (see also Implementing Instructions).



<p>Can we see who has participated in the Indian Energy Purchase Preference listening session?</p>	<p>Agencies recognize the value to connect with others in this space, but we have removed identifiable information from written comments to respect the privacy of attendees.</p>
<p>Can you define the Tribal Entities that can sell power to the Federal Government?</p>	<p>Many entities can sell power to the Federal Government. For the sake of the Indian Energy Purchase Preference, the power must be purchased from a Tribal Majority Owned businesses (TMOBs). TMOBs are defined as "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." Indian Tribe in this case means "any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians"</p>
<p>Does DOE guidance still allow limited competitions for Tribes to sell power to the federal government?</p>	<p>The DOE procurement guidance signed by Secretary Chu in 2012 is still in effect. Therefore, DOE can allow limited competitions for Tribes to sell power to the federal government.</p>
<p>Does it help for a Tribe or Tribal business to build their own substation to sell power to the Federal Government?</p>	<p>The need for substations is highly dependent on local conditions. Access to transmission lines and other infrastructure is among the most common barriers to selling power to the Federal government, and getting substations approved for interconnection and built can help reduce barriers to selling power. However, Tribes risk having stranded assets if they invest in facilities before finalizing power purchase agreements with Federal facilities or other customers.</p>
<p>Does nuclear energy meet the definition of renewable energy, or carbon-pollution free energy (CFE)?</p>	<p>While nuclear resources do not meet the definition of renewable energy under the Energy Policy Act of 2005, they do meet the definition of carbon-pollution free electricity under EO 14057. This latter definition is the basis of the 100% CFE goal the Biden administration has set for federal facilities by 2030. However, resources counting towards the administration's CFE goal must be placed in service on or after October 1st, 2021.</p>



<p>How can non-natives with relevant skills support Tribal energy development efforts?</p>	<p>Professionals are encouraged to build long-term relationships with Tribes that recognize Tribal sovereignty and facilitate local capacity building. DOE hosts the Tribal Energy Summit biannually to help connect Tribal energy workers with Federal agencies. Several regional and local events also regularly occur.</p>
<p>How is DOE applying preference (in the form of limiting competition or other policies) at the national labs?</p>	<p>The DOE policy applies to the national labs as well, but the specific opportunities will vary by lab. If you are interested in selling power to a national lab, please use the following link to submit an inquiry so we can connect you with the right people: Indian Energy Purchase Preference Inquiries Department of Energy</p>
<p>How should Tribal entities approach DOD facilities (e.g. military bases) when attempting to sell power under a Indian Energy Purchase Preference?</p>	<p>Please visit the following web page for any inquiries related to selling power to Federal Agencies under the Indian Energy Purchase Preference. (Indian Energy Purchase Preference Inquiries Department of Energy). We will use the information you provide to connect you with the appropriate agency and facilities.</p>
<p>If a Tribal government (not a business) wholly owns a source of carbon pollution free electricity, can they participate in the direct sale of power to the Federal government under Indian Energy Purchase Preference?</p>	<p>The statute (25 USC § 3501(d)) requires that a resource production “enterprise” be selling energy (or energy products) to the Federal government for the Indian Energy Purchase Preference to apply. We welcome inquires at the following link to help determine if your Tribal government qualifies: Indian Energy Purchase Preference Inquiries Department of Energy</p>
<p>Is a recording of the Indian Energy Purchase Preference Listening Session available?</p>	<p>Yes, a recording of the session is available at https://www.energy.gov/indianenergy/indian-energy-purchase-preference-listening-session.</p>
<p>Is there an easy way to be notified of contracting opportunities without continuously monitoring SAM.gov?</p>	<p>Unfortunately, monitoring SAM.gov is the only way to become aware of government contracting opportunities at this time.</p>
<p>Is there any guidance available for Tribes interested in adopting the latest nuclear technology (e.g. Small Modular Reactors, SMRs)?</p>	<p>DOE’s Office of Nuclear Energy is a great source for resources regarding Small Modular Reactors. We recommend you start here: https://www.energy.gov/ne/advanced-small-modular-reactors-smrs. If you have follow-up questions or would like to discuss further, please reach out according to the following link and we will be happy to connect you: Indian Energy Purchase Preference Inquiries Department of Energy</p>



<p>Is there any priority given to former or transitioning coal communities when the Federal Government conducts Tribal Power Purchase Agreements?</p>	<p>The Indian Energy Purchase Preference policy (25 USC § 3501(d)) does not distinguish between coal transition Tribes or other Tribes. However, multiple federal programs have been established to support communities specifically impacted by the closure of coal plants. More information can be found at https://energycommunities.gov.</p>
<p>Our Tribe is developing Green Hydrogen Production. How can we best approach DOE and other agencies to connect?</p>	<p>Please visit the following web page for any inquiries related to selling power to federal agencies under the Indian Energy Purchase Preference. (Indian Energy Purchase Preference Inquiries Department of Energy). We will use the information you provide to connect you with the appropriate facilities.</p>
<p>What assistance is available to Tribes to perform energy needs assessments and strategic energy planning?</p>	<p>The DOE Office of Indian Energy provides federally recognized Indian Tribes, including Alaska Native villages, and Tribal energy development organizations, with technical assistance to advance Tribal energy projects. Please go to https://www.energy.gov/indianenergy/technical-assistance for more information.</p>
<p>What is the typical contracting timeline for a Power purchase agreement with a Federal agency? Is there enough time from award to delivery for procurement and construction?</p>	<p>Timelines can vary and can often be quite long, and processes to use the preference are still being developed so it is currently difficult to predict. However, a viable project that is in early stages of planning and construction can be considered as part of GSA's pilot program.</p>
<p>Who should Tribal energy leaders reach out to if they are interested in building infrastructure in preparation to sell power to the Federal government?</p>	<p>The headquarters of agencies (GSA, DOE, and DOD) are willing to facilitate connections to Federal facilities and help disseminate information about the Indian Energy Purchase Preference (IEPP) policy within agencies. Tribes are encouraged to start by reaching out through the following link: Indian Energy Purchase Preference Inquiries Department of Energy.</p>



<p>What protections and safeguards are available to ensure renewable energy development does not circumvent Tribal sovereignty and risk cultural and environmental resources?</p>	<p>Each development project is unique, however Tribes should be aware of major federal laws and recent changes to them which could impact the role Tribes play as renewable projects are developed in their area:</p> <ol style="list-style-type: none"> 1) Many renewable development projects receive federal funding, or require federal permits for other reasons. As a result, they are required to comply with the National Environmental Policy Act (NEPA). Tribal Historic Preservation Offices are contacted through the NEPA process to ensure Tribal sovereignty, particularly related to cultural and environmental resources, is examined and incorporated in decision making. The Fiscal Responsibility Act of 2023 amended NEPA to allow Tribes to petition to serve as "Joint Lead Agencies" on the NEPA review of projects that impact them. It also set time limits for federal review to 1 year for environmental assessments and 2 years for environmental impact statements. 2) The Supreme Court's May 2023 ruling in Sackett vs. EPA has reduced the application of the Clean Water Act to cover a narrower subset of lakes, rivers, and streams, as well as bodies of water that have a continuous surface connection to those lakes, rivers and streams. If a project does not need a federal permit under the Clean Water Act, then it may not be subject to review under NEPA, provided there is not another federal role in the project. 3) The National Historic Preservation Act (NHPA) and its implementing regulations require federal agencies to consult with Tribes and to consider the effects on historic properties for projects they carry out, assist, fund, permit, license, or approve throughout the country. This law protects cultural resources.
<p>Would a Tribally-owned power marketing company that buys power from other generation sources (not necessarily TMOBs) and sells it to a federal facility be eligible for the preference?</p>	<p>If the power marketing company is majority owned by a Tribe(s), it would likely be eligible for the Indian Energy Purchase Preference Policy. It is important to note that as a result of recent clean energy policies (e.g. Executive Order 14057), many of the opportunities to sell power to Federal agencies will only be for specific generation sources. Feel free to ask additional questions through the following link: Indian Energy Purchase Preference Inquiries Department of Energy</p>

