



A Clean Energy Partnering Guide for North American Indigenous Communities & Organizations

Establishing Collaborative Relationships for Renewable Energy and Energy Efficiency Projects

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Partnering for Clean Energy Projects

This Working Guide for Clean Energy Partnering for Indigenous Communities has been prepared by Lumos Energy. The Guide serves as a resource for participants in the ***North American Indigenous Peoples and Energy Resources Forum*** presented by the Commission for Environmental Cooperation (CEC).

While the Guide is a Lumos product it draws upon material, case studies, and experience of indigenous communities, Aboriginal organizations and government programs (such as the ICECAP Program of Indian and Northern Affairs Canada, the US DOE's Tribal Energy Program, and the Renewable Energy Program in Mexico, as well as the work of the CEC).

The information contained herein is the responsibility of the authors and does not necessarily reflect the views of the CEC, or the governments of Canada, Mexico or the United States of America.

The Guide embodies a Key Principle: *That clean energy projects are fundamentally stronger and more robust with the participation of indigenous communities.*

Partnering Topics Covered

In First Nations traditions in Canada, the Great White Pine is a significant symbol of the environment and prosperity. The branches signify shelter and protection, and the roots extended in all four directions representing the connection with the Land, and cooperation amongst all Nations. The Guide covers the following Topics:

- A. The Clean Energy 'Secret Formula'
- B. The Value of Clean Energy Partnerships
- C. Defining a Partnership and the Types of Partnerships
- D. Partnerships for the Stages in Project Development
- E. Key Elements of Strong Partnerships
- F. Negotiating Partnerships
- G. A Model Aboriginal Partnership Agreement
- H. Getting Good Advisors on Board
- I. People – The Essence of Partnerships
- J. Conflict Resolution
- K. Partnerships in Profile



The 'Secret Formula' for Indigenous Clean Energy Projects

Many indigenous communities have an interest in energy efficiency and clean energy generation projects such as: hydro, wind, biomass, geothermal and solar. However, only a few dozen indigenous communities in North America have become active proponents, participants or partners in a clean energy project. In virtually every case all successfully implemented clean energy project involving indigenous communities had *Five Critical Factors*. In sum, the factors are what Lumos Energy refers to as the 'Secret Formula' for Indigenous Clean Energy Projects. And, committed Partners and a Strong Partnership is one of these *Five Critical Factors*.

- ❖ **Community Interests** +
 - ❖ **Committed Partners & A Strong Partnership** +
 - ❖ **Supportive Policy & Government Support** +
 - ❖ **Solid Clean Energy Resource/Opportunity** +
 - ❖ **Strong Project Development Plan** +
- = Successful Implemented
Clean Energy
Projects**

The Rationale and Value of Clean Energy Partners

Partnerships are needed for clean energy projects and add value in the following ways:

1. *Shared Interests*: More often than not community, private power developers, electric utilities and governments have shared, or common, interests in a clean energy project
2. *Leveraging Resources*: Bringing partners on board allows indigenous communities to leverage resources from other sources
3. *Partners Have Powers*: Partners (such as governments) often need to make regulatory/financial/policy changes to allow project to go ahead
4. *Project Management Capacity*: Partners often bring key project management capacity to work in partnership with indigenous communities
5. *Technical and Expert Skills*: Any energy efficiency or renewable energy project requires a comprehensive set of skills and expertise which partners can bring
6. *Project Investment*: The financial resources of many indigenous communities is limited. Partners can offer project investment funds.

Clean energy projects require partners. The challenge is to find partners that are prepared to: approach working with indigenous communities as equals; are prepared to adopt a sustainable development approach; arrive at fair financial terms; and, prepared to reach a partnership understanding that respects the traditions and Lands of communities.

So What Exactly is a Partnership?

- ❖ The word Partnership is used to define a wide range of associations indigenous communities have with external parties, and can range from: advisors, consultants, project collaborators; technical experts, technology providers, engineering companies, utilities, government, project developers or investors. In some cases the associations are quite informal or short term. These relationships should not be viewed as partnerships
- ❖ **Partnerships** are a formal association between parties where the: rights, obligations, nature of the relationship, contributions, benefits, risks, decision-making and conflict resolution details are specified in some form
- ❖ **Partnerships** tend to be more substantive and generally involve the non-indigenous party bearing certain obligations, making contributions or bearing risks that are beyond that of a supplier/consultant arrangement
- ❖ **Partnerships** are based on a deep relationship, and underpinned by Trust and Honesty
- ❖ **Partnerships** are also business relationships that are focused on some end goal, like a operating wind farm or hydro plant
- ❖ **Partnerships** work when they are formalized in writing and thought through well, with roles/contributions are set out in detail: including explaining what is done when there is a problem
- ❖ **Partnerships** involve a shared contributions between indigenous communities and partners, and a sharing of the project benefits

Partnerships in Profile: Canada

- ❖ The Ojibway Community of Pic River, Ontario has developed 3 small hydro projects over the past decade.
- ❖ The community's initial project was a small project of a few Megawatts, where the community 'learn the ropes' of project development.
- ❖ The most recent project was a larger one 23 MW
- ❖ All projects were developed through Partnerships with private partners
- ❖ For the most recent project the Partnership included: Innergex Corp. for development and project capital; Regional Power for construction and operation; and Rapid Eau Technologies for design and technology.
- ❖ The projects have established a sustainable source of revenue and employment for the community.



Key Elements of Strong Partnerships

Strong Clean Energy Partnerships that involve indigenous communities seem to contain a number of common elements:

- ❖ *Respect*: Acknowledging and adhering to community culture, traditions and practices on the part of non-indigenous players
- ❖ *A Relationship of Equals*: A relationship that is seen to be one between equal partners even if one partner (such as a private company) has greater power or resources
- ❖ *A Clear Focus*: A specific, business-oriented clean energy goal
- ❖ *Community Capacity Building*: A recognition that the indigenous community often lacks the capacity to take a project forward, or fulfill (initially) all partnership obligations. The relationship includes community capacity building support such as Advisors for community leaders
- ❖ *Early Stage Resourcing*: Defining how the people/cash resources to take the project forward in the early stages will be obtained
- ❖ *Thinking Through the Stages*: A clear plan that takes a project from feasibility to design to implementation
- ❖ *Clarity of Roles*: Definition of Roles, Rights, Responsibility and Returns
- ❖ *Efficient Dispute Resolution*: Mechanisms that specify how disputes are addressed, when and by whom

Types of Clean Energy Partnerships

Indigenous people's Clean Energy Partnership can either involve one partnership relations for the whole project or a set of partnerships of different kinds. It is generally more effective to have partnerships that are integrated and which incorporate (or will incorporate) all facets of a project including the following.

Project Stage

Primary Project Team
Clean Energy Resource Assessment
Project Feasibility
Power Purchase Agreement
Regulatory/Environmental Approvals
Project Financing
Design and Construction
Project Commissioning

Partner/Team Requirements

Clean Energy Advisor
Engineering Firm (with clean energy expertise)
Project Developer, Engineering Firm
Utility (power authority), Project Developer
Technical Specialists
Project Developer, Advisor, Bank, Financing Firm
Construction Firm, Engineering Firm, Tech Company
Construction Firm, Engineering Firm, Utility

To implement a renewable energy/energy efficiency project clearly requires a range of expertise. The indigenous community would generally agree to a Partnership with 1-3 of these players (most commonly: Project Developer, Engineering Company, Financing Firm). The other specialists would either be contracted for services, or have a sub-partner relationship with the prime partner.

Partnerships in Profile: United States

- ❖ On February 27, 2003, the first utility-scale Native American 750-kilowatt (kW) NEG MICON wind turbine was installed on the Rosebud Sioux Indian Reservation
- ❖ The Tribe had multiple partners in this wind energy project which was developed over the course of several years
- ❖ A solid wind regime and diligent work by the Tribe attracted the support of the federal Department of Energy (DOE) which provided a cooperative grant (50/50) to build a commercial utility turbine
- ❖ The ability of the Tribe to successfully apply this capital and implement the project is a product of working closely with the Intertribal Council On Utility Policy (ICOUP), and Partnership with Distributed Generation, Inc., a private wind energy developer
- ❖ Financing for the project also leveraged resources from the U.S. Department of Agriculture (USDA) Rural Utilities Service which provided a commercial loan



Getting Good Advice

Increasingly, indigenous communities are securing the services of their own clean energy Advisor/s to:

1. Strengthen the community's leadership team for clean energy projects;
2. Keep the community informed about energy issues, technology options, etc.
3. Advise and sometimes manage negotiations with prospective partners
4. Review project development options and advise the community

However, a word of caution, most companies or consultants in the areas of renewable energy and energy efficiency do not have substantial project experience. They tend to approach indigenous communities on a project, or general consulting basis. In comparison, good Advisors tend to:

1. Be *Performance Oriented* to get the project to the next stage, and completed;
2. Are willing to *Share in Project Risks*, and not necessarily require payments up front;
3. Possess a *Track Record* of projects they have worked on;
4. Have technical, project development, approvals and financing *Expertise*;
5. Be plugged into a *Network* of players with project developers, financing firms, utilities and governments;

Negotiating Partnerships

For several reasons negotiating partnerships for clean energy projects is one of the biggest challenges for indigenous communities. Firstly, community leaders are not experienced or familiar with such negotiations. Secondly, there is a risk that negotiations are 'not between equals' since private companies, utilities, etc. have more experience with such deliberations. Thirdly, there is no set process for negotiations.

To overcome these challenges, indigenous communities may wish to consider the following Negotiating Blueprint:

Step 1 - Understanding: Walking the Land, Meeting Community Leaders, Receiving Information about Potential Partner Organizations

Step 2 – Interests: Meetings (often several) to appreciate the specific Interests and Concerns all potential partners have with the project

Step 3 – Partnership Framework: Development of a Partnership Framework (see slide on Model Agreement). This can often benefit from the involvement of Advisors

Step 4 – Agreeing to Terms: Formal negotiations to agree to the specific contributions and benefits the indigenous community and partners make/derive from the project

Step 5 – Implementation: A clear, written-down agreement regarding how the Partnership will work to take the project forward

A Partnership Agreement Model for Aboriginal Communities

In helping indigenous communities develop clean energy projects, Lumos Energy has found conventional Partnership Agreements, MOUs, Term Sheets, etc. lacking because they fail to recognize the unique way indigenous communities approach such projects. Lumos Energy has therefore developed a unique ***Aboriginal Clean Energy Partnership Framework*** that takes a more holistic and sustainable development approach to the relationship, while at the same time strengthening the financial and business aspects of the relationship.

Lumos Energy's Aboriginal Clean Energy Partnership Framework

- A. Recognizing the Creator's Gifts
- B. Blessings from Elders
- C. The Sustainable Energy Resource
- D. The Parties to the Partnership
- E. Projected Clean Energy Project Benefits
- F. Project Benefits for the Community and its Members
- G. Rights of the Parties
- H. The Roles and Responsibilities of the Parties
- I. Ownership of the Clean Energy Asset in a Business Context
- J. Project Decision-Making and Communications
- K. Project Development Pathway & Timelines
- L. Financial Projections and Contributions
- M. Dispute Resolution

Partnerships in Profile: Mexico

- ❖ The Mexican Renewable Energy Program (MREP) has provided support for small scale applications for photovoltaics in all regions of the country
- ❖ In states like Chiapas applications have included: Electrification, Water Pumping and Communications
- ❖ The US National Renewable Energy Laboratory (NREL) and Sandia National Laboratories provide assistance to the MREP, however local communities, including indigenous peoples make decisions regarding which PV systems to install.
- ❖ The programs has listings and websites so that communities can access the services of private Mexican PV component and service providers



People are the Essence of Partnerships

Too often clean energy partnerships are developed on the basis on resource access, the availability of capital or the application of technology. Partnerships based on such approaches usual fail. In essence, clean energy projects (energy efficiency or renewable energy) become a reality when Property (where the resource is) and People (of the indigenous community and partners) come together in one package. For indigenous community, promoting the 'People Factor' is key to a project's success. Such as:

- ❖ Building Capacity in Community Leadership
- ❖ Training and Offering Apprentices to Indigenous Youth
- ❖ Ensuring Projects Offer Procurement and Construction Employment
- ❖ Training Clean Energy Technical People to Operate Facilities Once Constructed
- ❖ Reinvesting Income from Projects in Human Resources Development

The 'People Factor' is the energy that truly drives real value to be created in clean energy projects which involve indigenous communities



Conflict Resolution in Partnerships

Sometimes clean energy Partnerships, like most relationships, go through rough patches. Therefore it is critical that Partnership Agreements, Contracts, JV Memorandum, Shareholders Agreements, etc. specifically state how conflicts are resolved. The following guidelines are pertinent to preventing and resolving clean energy Partnership conflicts.

1. *Plan for Success, But Provide for Problems:* Partnership agreements should be focused on the clean energy project outcome being sought. However, they should include specific clauses that: Identify the kinds of conflicts that may arise; state what process will used to deal with the conflict (the earlier the better); and what remedies to conflicts might be sought, especially by indigenous communities
2. *Emphasize Up-Front Communications to Prevent Conflicts:* Seek to prevent conflicts from occurring or escalating by establishing regular communications forums for the Partnership
3. *Seek Mediators, Not Lawyers or Officials:* Establish in the Partnership the type (or even the specific individual) that would play a role of Mediator in the event of a conflict
4. *Be Fair About Remedies:* Sometimes it is not possible to resolve a difference in a clean energy partnership, one party may need to have their position be the final one to move the project forward. This should not end the Partnership, but the other party (say the indigenous community) should receive some remedy in recognition of the situation

Partnerships Aren't Perfect But

Clean energy partnerships aren't perfect. It's often difficult to reach an agreement, the project is always subject to challenges and delays, and the benefits may not be as originally projected. That said, the Bottom Line is that without Partnerships, indigenous communities will find it very difficult (though not impossible) to implement an energy efficiency initiative, or bring a hydro, wind, biomass, solar or geothermal project on line.

So the most effective approach for indigenous community is to embrace the concept of Partnerships and determine how good Partnerships can be established that respect the communities traditions and culture, while pursuing a clean energy project on a sound business basis.

Understanding Partnerships will take effort, and it will take a substantial amount of time to develop and make a Partnership work. At the end of the day, Partnerships can work. They are needed to produce solid clean energy results. Indigenous communities often find that good Partnerships, built as they should be on strong relationships, also create on-going friendships and associations that endure.



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