

# United States: Five Tips For Ethical Practices When Doing Business In Indian Country

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What is doing the "right thing" for ethical business practices in Indian Country? It is a challenge for a business to determine the best practices to follow when operating a business on tribal lands, or for a Native American tribe to consider investing in a project for economic development. So it is crucial to establish and follow ethical business practices in Indian Country. An ethical protocol will reduce the risk that the proposed project or business will fail.

To that end, it is important for businesses serving Native American communities to do their due diligence beforehand, whether it's for a solar project, housing project, or a new business line. It is equally important that the leadership of the Native American communities conduct due diligence on the project. The goal is for tribal leadership and the businesses serving tribal communities to know the potential costs, benefits and risks of the project.

The following are five tips that may help when making crucial business decisions that impact Native American communities. Please contact us if you would like more information on establishing ethical protocol for doing business with Native American communities.

## 1. Know The Community

Business owners know that it's important to keep their customers happy. Therefore, businesses should do their research on the communities they will serve or impact. They cannot assume that the cultural values, norms, etiquette and goals are the same for every community. In most situations, the community leaders will need to approve the project or business, so it is worth it to tailor the project or business to the community's goals and educate them on the project.

Tribal leaders will also benefit from determining what the tribal members in their communities really want for economic development. It often helps for a Native American tribe to perform an economic development study or develop a strategic plan to determine the goals for housing, infrastructure and essential needs before deciding which projects to invest in or fund for the communities.

## 2. Manage Expectations

It can be challenging for a business to navigate toward what is "right" amid real world influencers like big bottom lines and partner or investor expectations. Educating corporate management and investors as to timelines, expected profits and the importance of promoting long term economic development is key here.

Native American tribal leaders will also benefit from understanding the business or project, how it operates and the process to implement it.

### **3. Hire Independent Expertise**

Businesses may have to pay extra dollars or move timelines to hire the specific expertise they need for their due diligence on the Native American communities they will serve. It is always worth it to do that in advance, even if it is a small business. It will cost far more if the business or project fails after a business owner or developer spent time and money completing it.

Similarly, Native American tribes should consider hiring the appropriate independent expertise to advise on how the proposed business or project works. Using a project developer's expertise may not serve the tribe's interests. If time and budgets are an issue, the tribe could always request the business or developer of the proposed project to allocate funding towards their diligence in advance. Federal grant funding may also be available for feasibility studies or other types of due diligence for infrastructure projects through the U.S. Department of Agriculture or the U.S. Department of Energy (including the Office of Indian Energy).

### **4. Disclose All Material Interests**

Transparency is key to avoid ethical pitfalls. It also establishes a relationship of trust between a business owner, community leaders and the community. It is important that businesses disclose in advance their goals for the proposed project, the team involved and their respective professional experience, their working timeline, achievable milestones, financing issues and willingness to provide education, jobs and other types of training for long term economic development.

Native American tribes may find it useful to establish a protocol of ethics for all decision-makers to follow when determining whether to move forward with a project or business. If the proposed project or business is owned by family members of decision-makers, for instance, it is useful to disclose such interests in advance to fellow decision-makers so they may make a collective decision.

### **5. Seek An Independent Evaluation**

After approving a particular business or project, it is a good idea for a tribe to seek an independent review, by another committee or a consultant, to evaluate whether it meets industry expectations on price, risks and the expected benefits for the community. Accountability is essential for every business prospect. It will also help strengthen the tribe's procurement process for future projects.

Independent evaluations will also provide some certainty to business owners and developers, who will appreciate having projects evaluated using objective criteria rather than the influence of political interests in the tribal community.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*