

GAO Highlights

Highlights of [GAO-16-171T](#), a testimony before the Committee on Indian Affairs, U.S. Senate

Why GAO Did This Study

Indian energy resources hold significant potential for development, but according to a 2014 Interior document, these resources are underdeveloped relative to surrounding non-Indian resources. Development of Indian energy resources is a complex process that may involve federal, tribal, and state agencies. Interior's BIA has primary authority for managing Indian energy development and generally holds final decision-making authority for leases and other permits required for development.

The Energy Policy Act of 2005 provided the opportunity for interested tribes to pursue TERAs—agreements between a tribe and Interior that allow the tribe to enter into energy leases and agreements without review and approval by Interior. However, no tribe has entered into a TERA.

This testimony highlights the key findings of GAO's June 2015 report (GAO-15-502). It focuses on factors that have (1) hindered Indian energy development and (2) deterred tribes from pursuing TERAs. For the June 2015 report, GAO analyzed federal data; reviewed federal, academic, and other literature; and interviewed tribal, federal and industry stakeholders.

What GAO Recommends

In its June 2015 report, GAO recommended that Interior take steps to address data limitations, track its review process, and provide clarifying guidance. In an August 2015 letter to GAO after the issuance of the report, Interior generally agreed with the recommendations and identified some steps it intends to take to implement them.

View [GAO-16-171T](#). For more information, contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov.

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INDIAN ENERGY DEVELOPMENT

Actions Needed to Address BIA Management Challenges

What GAO Found

In its June 2015 report, GAO found that Bureau of Indian Affairs' (BIA) management shortcomings and other factors—such as a complex regulatory framework, limited capital and infrastructure, and varied tribal capacity—have hindered Indian energy development. Specifically, BIA's management has the following shortcomings:

- BIA does not have the data it needs to verify ownership of some Indian oil and gas resources, easily identify resources available for lease, or identify where leases are in effect, as called for in Secretarial Order 3215. GAO recommended that Interior direct BIA to identify land survey needs and enhance mapping capabilities. In response, Interior stated it will develop a data collection tool to identify the extent of the survey needs in fiscal year 2016, and enhance mapping capabilities by developing a national dataset composed of all Indian land tracts and boundaries in the next 4 years.
- BIA's review and approval is required throughout the development process, but BIA does not have a documented process or the data needed to track its review and response times, as called for in implementation guidance for Executive Order 13604. According to a tribal official, BIA's review of some of its energy-related documents, which can include leases, right-of-way agreements, and appraisals, took as long as 8 years. In the meantime, the tribe estimates it lost more than \$95 million in revenues it could have earned from tribal permitting fees, oil and gas severance taxes, and royalties. GAO recommended that Interior direct BIA to develop a documented process to track its review and response times. In response, Interior stated it will try to implement a tracking and monitoring mechanism by the end of fiscal year 2017 for oil and gas leases. However, it did not indicate whether it intends to track and monitor the review of other energy-related documents that must be approved before development can occur. Without comprehensive tracking and monitoring of its review process, it cannot ensure that documents are moving forward in a timely manner, and lengthy review times may continue to contribute to lost revenue and missed development opportunities.
- Some BIA regional and agency offices do not have staff with the skills needed to effectively evaluate energy-related documents or adequate staff resources. GAO is conducting ongoing work on this issue.

GAO also found in its June 2015 report that a variety of factors have deterred tribes from seeking tribal energy resource agreements (TERA). These factors include uncertainty about some TERA regulations, costs associated with assuming activities historically conducted by federal agencies, and a complex application process. For instance, one tribe asked Interior for additional guidance on the activities that would be considered inherently federal functions—a provision included in Interior's regulations implementing TERA. Interior did not provide the clarification requested. Therefore, the tribe had no way of knowing what efforts may be necessary to build the capacity needed to assume those activities. GAO recommended that Interior provide clarifying guidance. In response, Interior officials stated that the agency is considering further guidance, but it did not provide a timeframe for issuance.