



March 2022

INDIAN ENERGY SERVICE CENTER

Support Activities
Have Been Provided,
but Goals and
Performance
Measures Should be
Defined

GAO Highlights

Highlights of [GAO-22-103514](#), a report to the Secretary of the Interior

Why GAO Did This Study

Indian tribes and their members hold considerable energy resources and may use these resources to provide economic benefits and improve the well-being of their communities. To develop energy resources, tribes and their members work with multiple federal agencies involved in regulating development of Indian energy resources and distributing royalty payments.

GAO and others have previously found that developing Indian energy resources has been hindered by Interior's Bureau of Indian Affairs' inefficient management. In fiscal year 2015, Interior established the Indian Energy Service Center to improve its management of energy development in Indian country and increase collaboration between federal agencies.

This report examines (1) the Service Center's activities since 2015 toward improving management of Indian energy resources, and (2) the extent to which the Service Center has followed performance management practices. GAO examined agency documentation and interviewed officials.

What GAO Recommends

GAO is making two recommendations, including that Interior establish performance goals and measures for the Indian Energy Service Center's activities. Interior agreed with these recommendations.

View [GAO-22-103514](#). For more information, contact Frank Rusco at (202) 512-3814 or ruscof@gao.gov.

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INDIAN ENERGY SERVICE CENTER

Support Activities Have Been Provided, but Goals and Performance Measures Should be Defined

What GAO Found

Since the Department of the Interior established the Indian Energy Service Center in fiscal year 2015, the Service Center has undertaken efforts to improve federal management of Indian energy resources through three major activities:

- **Processing support.** The Service Center provided staff assistance and funding to support some Interior offices involved in the management of Indian energy resources. For example, Service Center staff conducted engineering reviews for oil and gas drilling permits and processed backlogged revenue-sharing agreements that had delayed distribution of oil and gas royalties to tribes and individual Indian mineral owners.
- **Collaboration.** The Service Center helped establish federal partner groups to improve coordination among federal agencies involved in Indian energy development. These groups were established in six areas of the country where Indian energy development is located.
- **Guidance and training.** The Service Center developed and delivered training on the roles and responsibilities of Interior agencies involved in energy development to encourage consistency among agencies and field offices (see figure).

The Indian Energy Service Center Provides Training on Oil and Gas Operating Procedures



Source: Indian Energy Service Center. | GAO-22-103514

The Service Center has a comprehensive mission statement to guide its activities at a high level, but GAO found that the Service Center does not have shorter-term performance goals with related performance measures. GAO's prior work highlights how goals and measures are important performance management practices because they help to focus activities and resources on achieving mission results. According to Service Center officials, they primarily track the Service Center's progress through project completion reports and an annual accomplishments list, which includes outputs such as the number of tasks the Service Center completed for field offices. However, without performance goals and measures, it is not possible to tell whether the number of tasks completed exceeds or falls short of desired results. Establishing performance goals and measures should help the Service Center better assess how effectively it is performing and whether its actions have improved processes or outcomes for Indian energy development.

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Abbreviations

BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CA	Communitization Agreement
DEMD	Division of Energy and Mineral Development
DOE	Department of Energy
EPA	Environmental Protection Agency
FWS	U.S. Fish and Wildlife Service
NEPA	National Environmental Policy Act
ONRR	Office of Natural Resources Revenue
SOP	Standard Operating Procedures

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March 10, 2022

The Honorable Deb Haaland
Secretary of the Interior

Dear Madam Secretary,

Energy and mineral production generated about \$1 billion in revenue for 33 federally recognized Indian tribes and approximately 31,000 individual Indian mineral owners in fiscal year 2021, according to the Department of the Interior. Indian country contains considerable oil, gas, and coal resources as well as significant potential for wind, solar, and other renewable energy development.

Developing these resources provides some Indian tribes and their members opportunities to decrease high levels of poverty and improve their living conditions and can lead to accumulation of capital that can support broader community and economic development. Effective management of Indian energy resources is therefore crucial for these broader development goals. However, on Indian lands, energy development largely depends on the efficient work of, and successful coordination among, multiple Interior agencies as well as other federal regulatory and tribal agencies tasked with managing energy resource development.¹

In response to tribal requests for increased coordination and more efficient management of their resources for energy development, Interior formed the Indian Energy Service Center in 2015. The Service Center's mission is to "streamline business processes to efficiently develop the Indian mineral estate while protecting trust assets by removing barriers to energy and mineral development on Indian lands." The Service Center

¹Indian land in this context generally means any tract in which any interest in the surface or mineral estate is owned by a tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and tribal land. See 25 C.F.R. §§ 162.003, 211.3, 212.3. Trust resources are held by the United States for the beneficial interest of the tribe or a member, and restricted resources are owned by the tribe or member but subject to restrictions on alienation, such as by the sale or the transfer of the resource. Trust and restricted resources generally cannot be leased without approval of the Secretary of Interior, who has generally delegated this authority to the Bureau of Indian Affairs. Mineral leasing of these resources may also be conducted by the Secretary, at the request and with the consent of the tribal owner.

considers energy and mineral development to include oil, gas, and renewable energy, including wind and solar.

The Service Center is a partnership of four Interior agencies: the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM), the Office of Natural Resources Revenue (ONRR), and the Bureau of Trust Funds Administration.² These agencies manage and process the federal government's Indian energy development responsibilities in field offices across the country.³ BIA and BLM generally review, process, and approve documents required for tribal energy development such as leases or permits. In the mineral leasing context, ONRR manages and ensures full payment of royalty revenues owed for the development of energy and natural resources on tribal leases, and the Bureau of Trust Funds Administration disburses collected revenues to Indian mineral owners and beneficiaries.

Since February 2017, due to longstanding ineffective management of Indian energy resources and other programs, we have included Interior's management of Indian energy resources as a high-risk area in need of attention from Congress and the executive branch.⁴

We prepared this report under the authority of the Comptroller General in light of congressional interest in federal efforts to assist Indian energy development. This report examines (1) the Service Center's activities since 2015 to improve management of Indian energy resources, and (2) the extent to which the Service Center has followed performance management practices.⁵

²In October 2020, the Bureau of Trust Funds Administration assumed the fiduciary functions previously managed by the Office of the Special Trustee for American Indians.

³We use the term field offices to refer to what are called field, agency, state, district, and regional offices of the Interior agencies.

⁴GAO, High-Risk Series: *Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, [GAO-17-317](#) (Washington, D.C.: Feb. 15, 2017). The most recent report on the high-risk list was issued in March 2021. The relevant high-risk area—Improving Federal Management of Programs that Serve Tribes and Their Members—addresses challenges related to Indian education, energy resources managed by BIA, and health care programs run by the Indian Health Service within Health and Human Services. GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C.: Mar. 2, 2021).

⁵For the purposes of this report, we use the terms Indian energy development and Indian energy resources to include oil, gas, and renewable energy, including wind and solar.

To examine the Service Center's activities since 2015 to improve management of Indian energy resources, we reviewed relevant documentation and interviewed agency officials. We reviewed documentation including Interior's budget justification reports, and documentation of the Service Center's planned and completed activities. We also reviewed data on the Service Center's obligations and expenditures. To assess the reliability of these data, we reviewed the data for obvious errors in completeness and accuracy and interviewed BIA budget officials knowledgeable about the data. We determined the data were sufficiently reliable for the purposes of reporting the Service Center's obligations and expenditures.

To examine the extent to which the Service Center has followed performance management practices, we reviewed documentation including the Service Center's Fiscal Year 2017–2021 Strategic Plan, the Fiscal Year 2020–2025 Strategic Plan, and reports of planned and completed activities prepared by the Service Center. We also reviewed relevant federal laws, regulations, and guidance, and previous GAO work on performance assessment.

We compared the Service Center's documents and actions to our prior work on results-oriented organizations and the importance of performance measures to show progress toward achieving program goals.⁶ We also reviewed *Standards for Internal Control in the Federal Government* and determined that the risk assessment, information and communication, and monitoring components of internal controls were significant to this objective, along with the underlying principles that management should define objectives clearly to enable the identification of risks and define risk tolerances, use quality information to achieve the entity's objectives, and establish and operate monitoring activities.⁷

⁶See, for example, GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996); *Agencies' Strategic Plans under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1997); *The Results Act: An Evaluators Guide to Assessing Agency Annual Performance Plans*, [GAO/GGD-10.1.20](#) (Washington, D.C.: April 1998); *Performance Measurement and Evaluation: Definitions and Relationships*, [GAO-11-646SP](#) (Washington, D.C.: May 2011); and *Managing For Results: Enhancing Agency Use of Performance Information for Management Decision Making*, [GAO-05-927](#) (Washington, D.C.: Sept. 9, 2005).

⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

For both objectives, we interviewed Service Center officials to obtain information about their activities and performance management efforts. We also interviewed officials from BIA, BLM, and ONRR. We confirmed the assistance provided by the Service Center and obtained views on the center's activities by interviewing officials from eight BIA and four BLM field offices that received assistance.⁸ We also obtained views from officials from the Mandan, Hidatsa and Arikara Nation in North Dakota, where the Service Center has been active.

We conducted this performance audit from April 2019 to February 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Origins of the Indian Energy Service Center

Beginning in the 2000s, development of oil and natural gas on federal and tribal land intensified due to both rising energy prices and new technologies. Advances in hydraulic fracturing and horizontal drilling not only made it more profitable to drill for oil and gas, but also made it possible to economically produce oil and gas from reservoirs previously considered too costly to develop.⁹

The resulting boom in development on Indian land increased the volume of work for Interior agencies. According to reports by Interior and others, BLM and BIA struggled to keep up with the demand for the review and approval of leases, permits, drilling orders, and revenue sharing agreements. This led to backlogs. The backlogs were particularly

⁸We interviewed officials from the Eastern Oklahoma and Great Plains BIA regional offices; the Anadarko, Concho, Fort Berthold, Osage, Southern Ute, and Uintah & Ouray BIA agency offices; and Dickinson, Farmington, Oklahoma, and Vernal BLM field offices.

⁹Hydraulic fracturing involves pumping water, sand, and chemical additives into oil and gas wells at high enough pressure to fracture underground rock formations and allow oil or gas to flow. When combined with horizontal drilling, hydraulic fracturing allows operators to fracture the rock formation along the entire horizontal portion of a well, increasing the number of pathways through which oil or gas can flow.

significant in North Dakota after the discovery of significant oil reserves in the Bakken Shale formation on the Fort Berthold Reservation.

Interior agencies took several actions to address these backlogs. For example, BIA and BLM created short-term teams to assist offices in North Dakota. In addition, Interior's Division of Energy and Mineral Development (DEMD) provided assistance to BIA field offices by assigning staff and contractors to perform such tasks as organizing oil and gas records and reviewing leases.¹⁰ The DEMD assists tribes with the exploration, development, and management of their energy resources.¹¹

In North Dakota, the DEMD also began assisting with the processing and approval of a severe backlog of revenue sharing agreements known as communitization agreements (CA). These are agreements to pool and allocate revenues from oil or gas production from a specified area. When a CA includes one or more leases of Indian land, then BIA must approve the CA. Without this approval, royalties cannot be distributed to tribes or individual Indian mineral owners.

The DEMD also assigned contractors to assist with issues derived from increased development activity additional offices including the BIA Uintah & Ouray office in Utah, the BIA Osage office in Oklahoma, and the Federal Indian Minerals Office in New Mexico that assists individual Navajo mineral owners.

In 2014, to provide processing support to multiple Interior agencies involved in energy development, Interior's Indian Energy and Minerals Steering Committee took steps to form a new office.¹² For example, the steering committee consulted with tribes regarding forming a service center to provide support to field offices for Indian energy development activities and developed the initial concepts and proposal for this service center.

¹⁰DEMD used a contract with Lockheed Martin to provide technical and staff assistance.

¹¹In 2021, Interior moved the DEMD organizationally from the Office of Indian Energy and Economic Development to BIA.

¹²The Indian Energy and Minerals Steering Committee is an Interior interagency forum for Indian energy and mineral resource development, royalty management coordination, and information exchange.

In fiscal year 2015, BLM, ONRR, and the predecessor to the Bureau of Trust Funds Administration provided funds to initiate the establishment of the Service Center. During this time, a DEMD official served in an acting capacity to begin establishing an office and acquire equipment. DEMD contractors continued to assist field offices, and several agencies detailed staff to develop and teach a training course on energy development procedures.

In December 2015, BIA, BLM, ONRR, and the predecessor to the Bureau of Trust Funds Administration signed a memorandum of understanding establishing the Indian Energy Service Center. The Office of Assistant Secretary-Indian Affairs budgeted about \$4.5 million for the Service Center each fiscal year from 2016 through 2021.

In fiscal year 2016, the Service Center hired two staff, including a director, and reimbursed the DEMD for continued contractor support it had been providing to offices. In fiscal year 2017, the Service Center staff grew to 16, and the staff assumed the responsibilities for providing support to participating agencies. Service Center officials said that the ability to provide support to participating agencies grew as the Service Center added staff. Employees are a mix of new employees and employees with experience in energy development tasks of the four participating agencies—BIA, BLM, ONNR, and the Bureau of Trust Funds Administration. The Service Center’s annual obligations and staffing count have increased since its establishment. The Service Center had two employees and obligated \$2.4 million in fiscal year 2016; it had 30 employees and obligated more than \$4 million in fiscal year 2020.

Service Center Mission and Leadership

According to Interior’s budget documents, the establishing memorandum of understanding, and strategic plans, the Service Center is to support and streamline Indian energy development business processes. To support business processes, the Service Center is to provide processing services to federal agencies to meet workload requirements of current and backlogged demands of leasing, permitting, developing, and reporting for energy development on Indian trust lands. To streamline processes, the Service Center is to identify and assist with implementing best practices to make Indian energy processes more efficient, and is to promote consistent application of policy and procedures among agencies. The Service Center is also to serve as a central point of collaboration for federal agencies involved in Indian energy development for Interior.

Leadership from each of the partner agencies participate in an Executive Management Group for the Service Center to provide expertise and assist

with activities such as strategic planning. According to Service Center officials, the Service Center holds bi-annual meetings with the management group to discuss roles, responsibilities, staffing, and workload.

The Service Center Has Provided a Variety of Support Activities to Agencies

Since 2015, the Service Center provided processing, funding, collaboration, and guidance and training support to improve management of Indian energy resources. Specifically, the Service Center supported several BIA and BLM field offices and ONRR by providing processing, funding, and collaboration assistance. In addition, the Service Center aimed to streamline agencies' efforts by providing guidance and training on responsibilities and processes. We discuss some of the highlights of Service Center activities below.

Processing Support

Since its inception in 2015, the Service Center prioritized providing processing support to several BIA and BLM field offices and to ONRR to address their immediate energy and mineral related needs.¹³ Service Center staff assisted offices to address backlogs or assisted with the workload for ongoing energy development activities, such as processing leasing and other documents. According to Service Center officials, some of these backlogs delayed the disbursement of royalties to tribes and individual mineral owners. This is a concern because individual Indian oil and gas resource owners may rely on revenue from oil and gas development to pay for daily expenses such as food, shelter, health, and education, according to a 2010 BLM report.¹⁴ Service Center support largely went to help field offices in North Dakota but support was also provided to offices in Oklahoma and Utah.

Examples of processing support the Service Center provided to agencies include:

- **Service Center processing support to BIA.** In January 2017, the Service Center initiated its largest project—an ongoing multi-year effort to process CAs for the BIA Fort Berthold field office in North Dakota that had been submitted for approval. According to a BIA Deputy Director, the delay in approving the CAs meant moneys collected for royalties could not be disbursed to the tribe and

¹³In addition, the Service Center provided some support to the Bureau of Trust Funds Administration.

¹⁴BLM, *Oil and Gas Drainage and Indian Diligent Development: Operations and Policy Review*. (Washington, D.C.: August 2010).

individual Indian mineral owners. In addition to these backlogged CAs, the Service Center agreed to process all CAs incoming to the BIA Fort Berthold Office. As discussed above, DEMD had previously provided assistance for processing CAs in North Dakota. The Fort Berthold BIA Superintendent said that the BIA office did not have the expertise to conduct the reviews in a timely manner and wanted to leverage the Service Center's experience.

According to Service Center officials, the Fort Berthold CAs are particularly complicated and time-intensive to process. (See text box.) As of February 2022, the Service Center had processed 226 CAs for approval of the 355 submitted.¹⁵ According to Service Center officials and ONRR data, this effort allowed for the distribution of more than \$1.2 billion in royalties to the Three Affiliated Tribes and individual Indian mineral owners.¹⁶

¹⁵The Service Center processes the CA and prepares a fully processed document for approval by the BIA Fort Berthold Agency Office Superintendent.

¹⁶Of the 355 submitted, the Service Center also completed significant processing for 21 CAs on the Little Missouri River and 64 CAs on the Missouri River. According to Service Center officials, final approval is delayed on the Little Missouri River CAs due to ongoing administrative appeals over the ownership of riverbed mineral rights. Final approval is delayed on the Big Missouri River CAs due to legal claims between the United States, the State of North Dakota and the Three Affiliated Tribes of the Fort Berthold Reservation. This litigation was filed by the Three Affiliated Tribes with the U.S. District Court regarding ownership of mineral rights.

Challenges Associated with Communitization Agreements in Fort Berthold, North Dakota

Each well or group of wells has an established area called a spacing unit from which the well can extract minerals. A well's spacing unit can include multiple tracts, mineral owners, and leases. When a spacing unit has multiple leases, the Bureau of Indian Affairs must approve a communitization agreement (CA) to define the area and the percentage of revenues from oil or gas production to each owner or lease.

According to officials in the Department of the Interior, processing CAs for the Fort Berthold reservation has been particularly complicated and time-intensive due to a number of factors including:

1. **Density.** Due to the nature of the Baaken formation at Fort Berthold and the dense spacing of horizontal wells necessary to develop fluid minerals, the area covered by one CA may overlap the area covered by a different CA. When this overlap occurs, it can significantly complicate the allocation among leases and any required federal agency approvals.
2. **Surveys.** Survey work was required to determine mineral ownership in certain areas including developing survey plats and legal descriptions.
3. **Litigation and Administrative Appeal.** Ongoing litigation and administrative appeals regarding ownership of minerals under and along the Big Missouri and Little Missouri Rivers has delayed final approval for related CAs.
4. **Accounting.** Between 2011 and 2015, federal agencies granted preliminary approval for some Fort Berthold CAs. The preliminary CAs allowed drilling to proceed and royalties to be distributed before the CA was fully approved. In completing the review of preliminarily approved CAs, Service Center staff must determine if the royalties that have been distributed match the allocation requirements in the final approved CA. In some cases they must calculate how past royalties should be redistributed.

Source: GAO. | GAO-22-103514.

The Service Center has supported other BIA offices with tasks needed to sell leases for the rights to develop oil and gas on Indian lands. For example, the Service Center assisted two Oklahoma field offices (Anadarko and Concho) and one in Utah (Uintah & Ouray) with tasks needed to facilitate oil and gas lease sales of Indian lands.¹⁷ BIA field office officials in one of the offices said that the assistance helped because the office had not conducted lease sales recently. An official in another office said that its lease sale had a large number of tracts for auction and the office did not have enough staff to handle the volume of work for the sale.

The Service Center also assisted the BIA Osage field office in Oklahoma with the National Environmental Policy Act's (NEPA) environmental

¹⁷BIA advertises Indian lands known to have oil and gas resources and includes them in oil or gas lease sales.

review requirements for oil and gas development on Indian lands.¹⁸ The Service Center conducted site specific environmental assessments for requests for drilling new wells on undisturbed land. The Service Center also conducted an assessment of the environmental impact of oil and gas development at the Osage reservation.¹⁹ The BIA Osage Superintendent said that she requested the Service Center's assistance because of the large number of job vacancies in the BIA office.

The Service Center also assigned a petroleum engineer to the BIA Osage Agency office for approximately a year, and the engineer reviewed more than 170 applications for actions at wells including drilling, repairs, or plugging. According to the Service Center and the BIA Osage Agency office Superintendent, Osage Agency's engineer retired and the office no longer had capacity to manage well permitting.²⁰

- **Service Center processing support to BLM.** The Service Center provided processing support to BLM's North Dakota and Oklahoma Field Offices and the Farmington District Office in New Mexico, in some cases temporarily providing a petroleum engineer to the office to assist with the office workload. The engineering support work included reviewing drilling plans, processing drilling permit applications, and preparing recommendations on well locations to

¹⁸When an operator wants to develop energy resources on tribal land, the federal government must consider the impact of the project on the environment. The National Environmental Policy Act of 1969 (NEPA), as amended, requires federal agencies, including BIA, to prepare an environmental impact statement—a detailed statement of the likely environmental effects of the action and a consideration of alternatives to the proposed action—when the agency proposes a major federal action significantly affecting the quality of the human environment. Agencies may also prepare an environmental assessment—a more concise analysis—to determine whether the action is likely to significantly affect the environment. Based on the results of the assessment, the agency may then move to prepare an environmental impact statement or conclude its analysis in a Finding of No Significant Impact, if appropriate. In some circumstances, agencies may have other options to satisfy NEPA requirements. The Service Center completed a Reasonably Foreseeable Development Scenario for the Osage Agency. This provided a baseline 20-year development projection that would be referenced in the Osage EIS under development.

¹⁹The Service Center prepared a projection of future development of oil and gas resources in the covered area under various alternatives for the Osage County Oil and Gas Final Environmental Assessment published in October 2020 in accordance with NEPA.

²⁰The BIA Osage Agency office is unique in that it has responsibility for permitting oil and gas drilling in the Osage jurisdiction. These permits are the responsibility of BLM in other offices.

comply with spacing rules.²¹ The Service Center reviewed and processed over 230 drilling permit applications and more than 220 applications to make changes at existing wells for the BLM North Dakota field office and the Farmington district office. The BLM Dickinson field office manager said that the office has a large workload and having the Service Center assistance allowed the office's engineers to do other work. According to the BLM Oklahoma field office manager, the office had a vacant geologist position, and the Service Center helped clear backlogs reviewing spacing and drilling orders.

The Service Center also gathered and reviewed data from BLM on natural gas emissions from production from 2013 through 2015 from tribal land on the Fort Berthold reservation. Natural gas burned (flared) or vented during production can be unavoidably lost or avoidably lost. If it was avoidable, the company owes royalties for the lost produced gas. The Service Center determined the amount of gas that was avoidably lost, prepared draft letters for the operators on royalties owed, and referred the information to ONRR for collection.

- **Service Center support to ONRR.** The Service Center provided compliance and audit support to ONRR for cases on Indian lands to ensure accurate royalty payments to tribes and individual mineral owners. For example, the Service Center conducted a review of transportation allowances throughout Indian country. Royalty payers can reduce royalties by claiming deductions for reasonable and actual costs of transporting oil and gas. According to Service Center officials, the Service Center identified over \$2 million in improper allowances and referred the companies to ONRR to collect associated royalties.²² In addition, the Service Center submitted 52 compliance referrals regarding CAs, which, according to Service Center officials, resulted in ONRR collecting over \$838,000 in additional royalties.

The Service Center also supported ONRR's general outreach efforts to tribes. For example, in 2019 and 2020, the Service Center drafted ONRR's annual letters to tribal leaders to issue to each tribe receiving royalty revenue during the fiscal year. These letters included information on royalties collected and compliance activities performed by ONRR during the fiscal year. Service Center officials provided

²¹State agencies and BLM establish spacing rules that govern the location and density of wells.

²²The Service Center identified cases where the allowance deduction exceeds a specified maximum percentage of the oil or gas value at the point of sale, and the appropriate amount of royalties due.

representatives to attend outreach sessions hosted by ONRR for tribes and individual mineral owners. Service Center officials answered questions regarding mineral revenues, royalties, and status of pending CAs.

Funding Support

The Service Center provided approximately \$4.9 million in funding from fiscal year 2016 through 2021 to other offices to support activities such as land surveys. For example, the Service Center provided \$1.7 million for conducting cadastral surveys, which document the extent, value, and tract boundaries for leasing. Cadastral surveys are important because, in some cases, records are outdated or cannot be found, and BIA must have a new cadastral survey conducted to verify ownership before a lease is approved and royalties paid.²³

As part of this approximately \$4.9 million in funding, the Service Center also provided over \$1.5 million to Interior's Appraisal and Valuation Services Office for mineral evaluations needed for Oklahoma tribal member leases. According to BIA officials, these evaluations are required in the state, but no funds have been set aside in BIA's budget to conduct them. In addition, the Service Center also provided approximately \$1.5 million of the total amount for energy-related activities (including NEPA compliance activities) at BIA's Great Plains Regional Office and Fort Berthold and Osage Agency offices. According to Service Center officials, because the Service Center has now filled its vacant positions, there will be fewer funds available to provide financial assistance in the future, but the Service Center will be able to provide processing services to federal agencies with the additional staff.

Collaboration Support

The Service Center has undertaken several activities to promote collaboration among key agencies involved in the development and management of Indian energy. For example, according to Service Center officials, the Service Center has conducted monthly calls with leaders of agencies with energy development responsibilities participating in the Service Center to discuss the Service Center's activities and current issues. These monthly calls included DEMD, the Department of Energy (DOE), and the Environmental Protection Agency (EPA). In May 2020, the Service Center, DEMD, and DOE developed a plan to guide

²³According to Service Center officials, BIA has limited funds for cadastral surveys and must prioritize its resources. As of December 2021, there was an outstanding need to conduct 1,640 surveys. Out of the \$1.7 million toward cadastral survey completion, \$900,000 was provided for cadastral surveys along the Missouri and Little Missouri Rivers in North Dakota that were necessary to perfect title associated with river course migration and other issues contributing to title disputes.

interaction, which includes the goal to leverage each other's resources to jointly contribute to Indian energy resource and capacity development and a plan to meet monthly.

In addition, to support collaboration at the local level, the Service Center administers meetings of Interior agencies in six regions where oil and gas development and renewable activity occurs.²⁴ These meetings are for agency officials at the local level to identify, review, and resolve leasing, permitting, revenue distribution, and coordination issues. As part of its administrative responsibilities, the Service Center updated the charters of three existing regional federal groups representing the Fort Berthold Reservation, the Uintah & Ouray Reservation, and tribal energy development issues in Kansas, Texas, and Oklahoma.²⁵ The Service Center also established three new regional federal groups representing Indian energy development in BIA's Rocky Mountain, Navajo, and Southwest regions. These groups held their first meetings in August of 2020.²⁶

Service Center officials told us that these regional meetings have been beneficial for facilitating the exchange of information between agencies and resolving impediments to timely processing of energy development activities. For example, confusion between a local BIA and BLM office regarding who was responsible for conducting the work lead to delays in processing certain drilling permits. In one regional federal partner meeting in 2020, officials from a local BIA and BLM office discussed which agency was responsible for steps in the well permitting process known as

²⁴The Indian Energy and Minerals Steering Committee, which is an interagency forum of senior leaders of Interior agencies with energy development responsibilities, created federal partner groups, where needed, to provide field knowledge on tribal energy development issues. In 2019, the committee assigned the responsibility for administering the federal partner groups to the Service Center.

²⁵The regional partnership charters outline the duties of the group, frequency of meetings, and the membership, and are signed by representatives of each of the participating agencies.

²⁶The members of the regional federal partner groups include the Service Center, BIA, BLM, Bureau of Trust Funds Administration, ONRR, and DEMD.

designation of operator. In June 2021, local officials and staff met to resolve differences and receive training on the agreed process.²⁷

According to Service Center officials and the charter agreements, any issues the agencies identify that cannot be resolved at the local level are referred to the appropriate higher level management. The agency leaders in each region discuss issues identified and lessons learned at periodic national meetings of the Indian Energy and Minerals Steering Committee.

Service Center officials also told us that the regional meetings have helped facilitate collaboration with EPA, Fish and Wildlife Service (FWS), and the U.S. Army Corps of Engineers. In 2020, the Service Center included language in the six regional federal partner group charters that EPA, FWS, and the Corps could be invited to attend meetings, and officials from these agencies participated in regional meetings that they held in 2020 and 2021.²⁸ Service Center officials said that the Interior agencies were able to work closely with EPA at the Fort Berthold regional meeting on issues with underground injection wells associated with oil and gas production on tribal land.²⁹ In addition, at several different regional meetings in 2020, FWS officials informed the federal participants about upcoming changes that would potentially remove or add endangered species in the area. Under Section 7 of the Endangered Species Act, federal agencies must ensure that any action they authorize, fund, or carry out—including approval for Indian energy development activities—is not likely to jeopardize the continued existence of a species protected under the Act.

²⁷In some instances, a well operator submitting an Application for Permit to Drill on tribal land may be different than the lessee on the BIA lease. The well operator applying for the permit must submit documentation that they are authorized to operate on the leasehold.

²⁸ Each charter notes that representatives from each of these agencies/offices may be invited to participate including the Appraisal and Valuation Services Office, the Office of the Solicitor, DOE, the Corps, Bureau of Reclamation, EPA, FWS, and any other federal agency representatives as needed.

²⁹To protect underground sources of drinking water, certain injection wells are subject to regulation under the Underground Injection Control program overseen by EPA under the Safe Drinking Water Act. States and tribes with approved programs permit and inspect these wells and enforce these requirements, but those tasks are performed by EPA where the relevant state or tribe does not have an approved program. On Indian lands in North Dakota, EPA permits underground injection wells, inspects wells to ensure that wastes have not migrated from the injection zone, and enforces regulations, among other things.

Training and Guidance Support

According to Service Center officials and documents, efforts to streamline processes associated with oil and gas and renewable energy leasing and development have focused on training and guidance. Officials told us this is because the Service Center prioritized the immediate backlog needs of agency offices, and they did not have the capacity or authority for more robust streamlining activities. According to Service Center officials, various agencies and agency field offices have interpreted timeframes and administrative steps differently because the regulations for lease management activities often offer broad and not detailed direction. According to these officials, Service Center training and guidance provide detail on agency roles that can promote consistency and improve coordination, which can help to prevent duplication of services and eliminate bottlenecks.

Examples of training and guidance the Service Center provided to agencies include:

- The Service Center developed and delivered a two-day training course for federal and tribal employees on the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP) for Indian oil and gas. This SOP describes the division of responsibilities for energy development and information sharing among Interior agencies for energy lease management and accounting.³⁰ The Service Center conducted the course 17 times through December 2021. According to Service Center officials, more than 650 officials from various federal agencies and seven tribes have attended the Service Center led course. (See fig. 1.)

³⁰The SOP describes the lease management activities for federal onshore and Indian trust leases. The SOP includes tables that outline the various leasing activities, agency responsible for each activity, and notations on information sharing requirements among the agencies.

Figure 1: The Indian Energy Service Center Provides Training on Standard Operating Procedures in 2019



Source: Indian Energy Service Center. | GAO-22-103514

- The Service Center developed instructions, a checklist, and updated training materials for processing CAs. The Service Center conducted four training events from 2019 through 2020 on the CA process.
- The Service Center provided guidance in 2020 by leading the update of an SOP attachment that outlines agency procedures and the division of responsibilities for fluid mineral leasing.³¹ This was a multi-year effort. Service Center officials said that they learned of inconsistencies and outdated procedures in discussions during the SOP training classes, regional federal partner meetings, and while providing support services to agencies. The Service Center updated the SOP attachment and led the approval process among the seven agencies involved. According to Service Center officials, the updates were primarily technical in nature and not large process changes.

³¹The Indian Energy and Minerals Steering Committee tasked the Service Center with the responsibility of managing SOP revisions. The Service Center led the update of the SOP's Attachment A - Agency Responsibilities and Information Sharing – Fluid Minerals.

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- The Service Center drafted a new attachment to the SOP to outline agency procedures for approving agreements with tribes or tribal organizations that allow them to enter into leases, business agreements, and rights-of-way for energy resource development on tribal land without the Secretary of Interior’s review and approval.
 - The Service Center coordinated with BIA, BLM, and Interior’s Office of Environmental Policy and Compliance to review existing NEPA policies and procedures to identify ways to streamline BIA’s environmental review process for energy projects.³² In particular, the group reviewed activities that could be excluded from a full environmental assessment to reduce the time needed to complete the NEPA process. As a result, Interior is considering expanded policy documents to note that BIA does not have to conduct full environmental analysis for certain projects (such as those that reuse an existing well pad or existing right of way).

According to the deputy director of the BIA Office of Trust Services and officials from the Service Center, additional Indian energy development processes and regulations would benefit from more fundamental streamlining. For example, the Service Center has identified errors in agency guidance and inconsistent application across agencies. In some cases, Service Center officials said these issues have led to processing errors and delays. For example, BIA and Service Center officials said BIA’s Fluid Mineral Estate Procedural Handbook is outdated and needs corrections for a step in the well permitting process known as designation of operator that affects certain well permit applications.³³ Officials said the error has led to processing delays in Oklahoma.³⁴

³²Under NEPA, federal agencies evaluate the likely environmental effects of projects they are proposing by preparing an environmental assessment and/or, if projects are likely to significantly affect the environment, a more detailed environmental impact statement. If, however, the agency determines that activities of a proposed project fall within a category of activities the agency has already determined has no significant environmental impact—called a categorical exclusion—and no extraordinary circumstances exist, or if they exist but are mitigated by circumstances that lessen the impact sufficiently to avoid significant effects, then the agency generally does not need to prepare an environmental assessment or an environmental impact statement.

³³BIA Handbook 52 IAM X-H, “Fluid Mineral Estate Procedural Handbook” (issued July 2012).

³⁴In some instances, a well operator applying for an Application for Permit to Drill on tribal land may be different than the lessee on the BIA lease. The well operator applying for the permit must submit documentation that they are authorized to operate on the leasehold.

Other energy development processes may also benefit from updating. For example, federal oil and gas leases are now issued through online lease auctions. However, according to Service Center officials, BIA's mineral leasing regulations do not allow online lease sales and they have largely not been updated since 1996.³⁵

Service Center officials said they intend to complete more streamlining activities for energy development in the future, coordinating with the federal agencies and the Interior Office of the Solicitor to the extent possible. Officials cautioned, however, that the processing functions, policies, and procedures that are core to facilitating Indian energy development are led by other Interior agencies and are not under the Service Center's direct control. BIA stated that BIA leadership is delegating the responsibility to update energy related policies, procedures and regulations to the Service Center. The Service Center may work on improvements in coordination with the responsible agency, but the extent to which streamlining is accomplished will depend on the agency with direct authority.

The Service Center Has Not Fully Implemented Performance Management Practices

We found, based on our review of relevant documents and interviews with Service Center officials, that the Service Center has not fully implemented performance management practices. Specifically, while the Service Center has defined its mission, it has not clearly defined its goals in its strategic plan and has not established performance goals and measures to assess the effectiveness of its activities.

Define mission and strategic goals. The Service Center's fiscal year 2020-2025 strategic plan included a comprehensive mission statement: "Streamline business processes to efficiently develop the Indian mineral estate while protecting trust assets by removing barriers to energy and mineral development on Indian lands." According to Service Center officials and documents, the Service Center is to accomplish this mission by providing support services to agency offices, standardizing and streamlining processes, and gaining efficiencies through the collaboration of agencies.

The Service Center's strategic plan, however, does not have strategic goals that are clearly linked to its mission. We found that the Service Center fiscal year 2020-2025 strategic plan's five goals reflect the Service

³⁵BIA's 25 C.F.R. Parts 211 and 212 mineral leasing regulations were largely issued in 1996 and have not been revised or updated since then, aside from annual penalty adjustments to 25 C.F.R. § 211.55, as also incorporated in 25 C.F.R. § 212.55.

Center's activities, rather than intended outcomes that are clearly linked to its mission to streamline business processes or provide specific support services. Instead, these five goals are: 1) improve customer service, 2) verify revenue to support departmental and national interests, 3) fulfill our trust responsibility, 4) educate, and 5) collaborate.

In agency strategic planning, strategic goals generally are the broadest and highest level goals; they are long-term and outcome-oriented. *Standards for Internal Control in the Federal Government* state that management should define goals clearly to enable the identification of risks and define risk tolerances.³⁶ In doing so, management defines goals in clear and specific terms so they can be understood, including clearly defining what is to be achieved. Without clearly stating strategic goals that identify what the Service Center is to achieve, leadership will not be able to assess the degree to which the Service Center is achieving desired results. An example of a strategic goal could be "improve timeliness for processing permits for energy development while continuing to meet legal and regulatory requirements."

Measure performance. In addition to not having outcome-oriented strategic goals, the Service Center's strategic plan does not have shorter-term performance goals with related performance measures to assess the degree to which the Service Center is achieving its strategic goals. As for performance measures, we found that the Service Center focused performance measurement on the quantity of its efforts instead of measuring mission-related outcomes.

According to leading practices, results-oriented organizations set performance goals to clearly define desired program outcomes.³⁷ Performance goals are near-term, objective, quantifiable, and measurable. To measure whether goals are achieved, agencies should develop performance measures that are clearly linked to the performance goals. Agencies should develop a range of related performance measures, such as quantity, quality, timeliness, cost, and outcome. An example of a performance goal for the Service Center could be to have all CAs processed within 120 days. A corresponding performance measure

³⁶[GAO-14-704G](#).

³⁷GAO, *Agencies' Strategic Plans under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1997), [GAO/GGD-96-118](#). Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285 (GPRA), and GPRA Modernization Act of 2010, (Pub. L. No. 111-352, 124 Stat. 3866 (2011)), also identify leading performance assessment practices.

could be the percentage of CAs received during the year that are processed within 120 days.

The Service Center does not have performance goals and, according to Service Center officials, they primarily track the Service Center's progress through project completion reports and an annual accomplishments list, which includes outputs such as the number of tasks the Service Center completed for field offices. However, without performance goals and measures that are based on the overall strategic goals, it is not possible to tell whether the number of tasks completed exceeds or falls short of desired results.

Moreover, leading practices note that outcome-oriented measures can help track progress in achieving the intended results of the program. In this regard, measuring the number of tasks completed for field offices does not inform whether, for example, these have resulted in the tasks being completed more efficiently than they had been. The Service Center also reviews its internal controls for processing CAs as part of a broader Interior internal control review.³⁸ However, the Service Center's assessment of the CA process is centered around internal controls and not performance.

Service Center officials told us that they have prioritized establishing the Service Center's core functions and responding to needs identified in the course of the Service Center's work. Service Center officials said that they would incorporate performance goals and measures linked to strategic goals into future strategic plans. Establishing performance goals and related outcome-oriented performance measures where feasible, should help the Service Center better assess how effectively it is performing and whether its actions have improved processes or outcomes for Indian energy development.

Conclusions

Since its establishment in 2015, the Indian Energy Service Center has undertaken a variety of activities aimed at improving energy and mineral development on Indian lands, such as providing centralized processing assistance, facilitating local coordination, and training federal employees

³⁸Interior's Office of Internal Evaluation and Assessment conducts annual reviews of the effectiveness of internal controls to comply with Office of Management and Budget Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. In fiscal year 2019, the Service Center began assessing the Service Center's CA process at the request of Interior's Office of Internal Evaluation and Assessment.

on standardized procedures. While the Service Center continues to provide a number of different types of support to federal offices, we found that the Service Center has not clearly stated strategic goals in a way that specifies what is to be achieved, and does not have shorter-term performance goals with related performance measures. Our prior work highlights how such goals and measures are important tools to focus activities and resources on achieving mission results. By developing clearly defined strategic and performance goals, and measuring its performance against them, the Service Center would have the information it needs to better evaluate how effectively it is performing and identify processes that most need improvement.

Recommendations for Executive Action

We are making the following two recommendations to Interior:

The Director of the Indian Energy Service Center should clearly state the specific strategic goals for the Service Center, identifying what is to be achieved. (Recommendation 1)

The Director of the Indian Energy Service Center should establish performance goals and related outcome-oriented performance measures, where feasible, based on the specific strategic goals. (Recommendation 2)

Agency Comments

We sent a draft of this report to Interior for review and comment. In its comments, reproduced in appendix I, Interior concurred with our recommendations. Interior also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Director of the Indian Energy Service Center, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841 or ruscof@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in black ink that reads "Frank Rusco". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right from the end of the name.

Frank Rusco
Director, Natural Resources and Environment

Appendix I: Comments from the United States Department of the Interior



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

March 3, 2022

Mr. Frank Russo
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Russo:

Thank you for providing the Department of the Interior (Department) an opportunity to review and comment on the Government Accountability Office (GAO) draft report titled, "INDIAN ENERGY SERVICE CENTER—Support Activities Have Been Provided, but Goals and Performance Measures Should be Defined" (GAO-22-103514). The GAO issued two recommendations to the Department of Interior to address its findings. Below are the responses to the recommendations:

Recommendation 1: The Director of the Indian Energy Service Center should clearly state the specific strategic goals for the Service Center, identifying what is to be achieved.

Response: Concur. The Indian Energy Service Center (IESC) established an initial strategic plan in 2017, during the first year of operations and is engaged in regular updates and improvements to that planning document. Since 2018, the IESC creates annual Operational Plans, and the IESC currently operates under its approved FY20-FY25 Strategic Plan. The IESC's strategic planning process to date has entailed developing strategic goals based on Department of Interior (DOI) priorities and workload referred to the IESC. These plans are vetting through the IESC's Executive Management Group (EMG), composed of executive leadership representatives from the IESC's component agencies. The IESC is analyzing and updating the current strategic plan. The Department's strategic plan is in development is anticipated to be released this spring. The IESC will work to develop an updated and expanded strategic planning process that is consistent with the Department's priorities and implement strategic elements from the IESC's four participating agencies including Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), and Bureau of Trust Funds Administration (BTFA).

Responsible Official: Deputy Bureau Director – Trust Services

Recommendation 2: The Director of the Indian Energy Service Center should establish performance goals and related outcome-oriented performance measures, where feasible, based on the specific strategic goals.

Appendix I: Comments from the United States
Department of the Interior

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Response: Concur. Since its inception in 2015, the IESC has generated reports of progress and performance in response to Departmental data calls and ad-hoc inquiries. The IESC regularly generates reports of progress and performance for its participating agencies. The IESC is currently developing a framework to support more formal, structured, and scheduled reporting to comply with the Government Performance and Results Act (GPRA) Modernization Act and the Office of Management and Budget (OMB) that requires agencies' report on their performance at the end of each fiscal year. The IESC is developing outcome-oriented annual performance measures and metrics to ensure that we are meeting our operational goals and more broadly, supporting the Department in meeting its GPRA goals. Since 2018, the IESC has implemented A-123 internal control metrics and will continue to examine requests for assistance from across the Department and work with the IESC's component agencies to develop IESC performance measures and to link them to those of the IESC's component agencies where appropriate. With the recent Standard Operation Procedures (SOP) Attachment A-Addendum II updates focusing on Communitization Agreement (CA) processing timelines and modernization, the IESC has established a performance goal that all new CAs are processed within 120 days. The IESC's performance goal is identifiable, objective, quantifiable, and measurable. The IESC will develop a query for sample testing of new CA submissions including quantity, quality, timeliness, and outcome. The performance goal will be reported annually.

Responsible Official: Deputy Bureau Director – Trust Services

Should you have any questions, please contact Albert Bond, Acting IESC Director, BIA at (720) 484-3333 or albert.bond@BIA.gov.

Sincerely,



Deputy Bureau Director – Trust Services

cc: Bryan Newland, Assistant Secretary – Indian Affairs
Darryl LaCounte, Director – Indian Affairs
Genevieve Giaccardo, Chief of Staff, BIA
Trina Locke, Division Chief, Program Management and Coordination, BIA
Carla Clark, Acting Division Chief, Real Estate Services, BIA
Albert Bond, Acting Director, IESC, BIA

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

Frank Rusco, (202) 512-3841 or ruscof@gao.gov

Staff Acknowledgments

In addition to the contact named above, Quindi Franco (Assistant Director), Leigh White (Analyst in Charge), Jack Granberg, William Gerard, Donna Morgan, and Dan Royer made key contributions to this report.

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