

Recommendation: TERA

Tribal Energy Subcommittee

Royalty Policy Committee

TERAs: Tribal Energy Resource Agreements

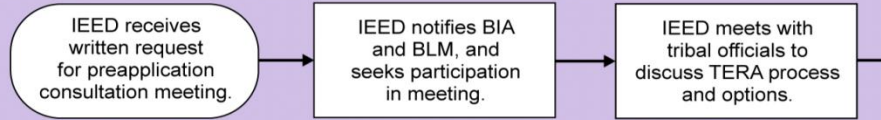
- ▶ Authorized through the Indian Tribal Energy Development and Self-Determination Act, Title V of the 2005 Energy Policy Act
- ▶ Authorizes Secretary of the Interior and a tribe to enter into a TERA
- ▶ Authorizes tribe to develop and approve its own leases, business agreements, or rights-of-way for a broad range of activities related to development of energy resources **without requiring secretarial approval** for each lease, agreement, or right-of-way

No Tribe Has Yet to Enter into a TERA: some of the hurdles

- ▶ Undefined limitation on the scope of TERA: a tribe cannot assume “inherently federal functions”
- ▶ Tribal Environmental Review Process, similar to the federal National Environmental Policy Act process
- ▶ Unknown funding for tribes to engage in NEPA like compliance
- ▶ Demonstration of tribal capacity
- ▶ Opportunity for Review and Comment of TERA

As of 2015, at least six (6) tribes had requested preapplication meetings to discuss establishing a TERA

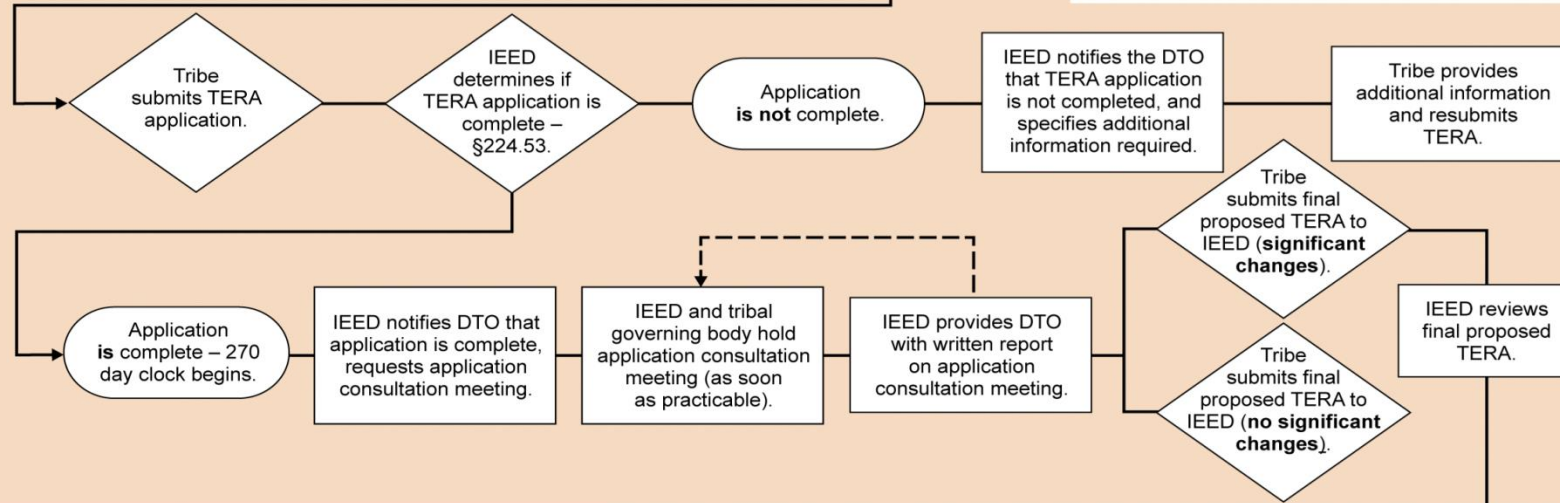
TERA preapplication consultation



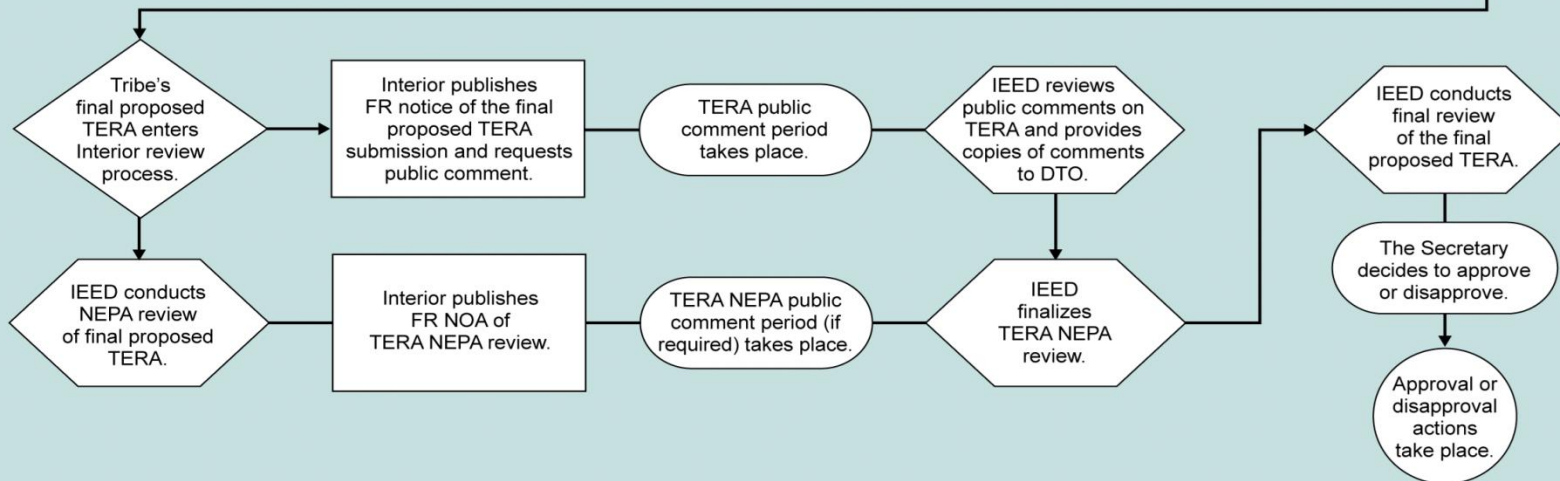
Abbreviation legend:

BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
DTO	designated tribal official
FR	<i>Federal Register</i>
IEED	Office of Indian Energy and Economic Development
Interior	Department of the Interior
NEPA	National Environmental Policy Act
NOA	Notice of Availability
TERA	Tribal Energy Resource Agreement

TERA application submission and review



Interior (IEED) TERA review



Recommendation: 2015 GAO Report Indian Energy Development

- ▶ For the Department of the Interior to provide additional energy development-specific guidance on provisions of TERA regulations that tribes have identified as unclear.
- ▶ Specifically:
 - ▶ TERA regulations authorize tribes to assume responsibility for energy development activities that are not “inherently federal functions.”
 - ▶ DOI has not provided guidance on what are non inherently federal functions
 - ▶ Lack of guidance prevents tribes from knowing what it can and cannot perform and where to build capacity

Recommendation

- ▶ Entire Recommendation is represented in the two page document
- ▶ Recommendation redrafted after the Houston RPC meeting
 - ▶ DOI staff very helpful in suggesting a recommendation that will be actionable
 - ▶ Incorporates lessons learned from preapplication discussions from __ tribes in 2006 - 2008

Recommendation is Provided because:

- ▶ Development of energy resources on tribal lands is critical to develop energy independence of the United States.
- ▶ Clarifying TERA is wholly within the authority of DOI to do.
- ▶ TERA is an existing tool that in theory can be refined relatively quickly so that it can fully utilized and tested as a tool for enhancing tribal flexibility in energy development and advance the United States' overall energy development portfolio.

TERA Work Group

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