

Supporting Statement
Western Area Power Administration Applicant Profile Data
OMB Control No: 1910-5136

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.**

Western Area Power Administration (Western) is a Federal agency under the Department of Energy (DOE) that markets and transmits wholesale electrical power from 56 Federal hydropower plants and one coal-fired plant. Western sells about 40 percent of regional hydroelectric generation in a service area that covers 1.3 million square-miles in 15 states. To deliver this electric power to the western half of the United States, Western markets and transmits about 10,000 megawatts of hydropower across an integrated 17,000-circuit-mile, high-voltage transmission system. Western's mission is to deliver this power to its statutorily defined preference customers, which include municipalities, cooperatives, public utility and irrigation districts, Federal and State agencies, and Native American tribes.¹ These customers, in turn, provide retail electric service to millions of consumers in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming.

The amount of Federal power Western has to market is limited. Western has discretion to determine who will receive an allocation of Federal power. Due to the high demand for Western's power and limited amount of available power, Western needs to be able to collect information to evaluate who will receive an allocation of Federal power. As a result, the information Western collects is both necessary for the proper performance of its functions, and is useful in performing those functions. Western will use the information collected in conjunction with its marketing plan, to determine an entity's eligibility and ultimately who will receive an allocation of Federal power.

The basis of Western's authority is the Reclamation Laws, which are a series of laws arising from the Desert Land Act of 1872 and include but are not limited to: the Desert Land Act of 1872, Reclamation Act of 1902, Reclamation Project Act of 1939, and the Acts authorizing each individual project such as the Central Valley Project Authorizing Act of 1937.² The Reclamation Act of 1902 established the Federal reclamation program.³ The basic principle of the Reclamation Act of 1902 was that the United States, through the Secretary of the Interior, would build and operate irrigation works from the proceeds of public land sales in the sixteen arid Western states (a seventeenth was added later). The Reclamation Project Act of 1939 expanded the

¹ See, e.g., 43 U.S.C. § 485h(c).

² See Ch. 107, 19 Stat. 377 (1872), Ch. 1093, 32 Stat. 388 (1902), Ch. 418, 53 Stat. 1187 (1939), Ch. 832, 50 Stat. 844, 850 (1937), all as amended and supplemented.

³ See Ch. 1093, 32 Stat. 388, as amended and supplemented.

purposes of the reclamation program and specified certain terms for contracts the Secretary of the Interior enters into to furnish water and power.⁴ Congress enacted the Reclamation Laws for purposes that include enhancing navigation, flood protection, reclaiming arid lands in the western United States, and for fish and wildlife.⁵ Congress, generally, intended that the production of power would be a supplemental feature of the multi-purpose water projects authorized under the Reclamation Laws.⁶ No contract entered into by the United States for power may impair the efficiency of the project for irrigation purposes.⁷ Section 5 of the Flood Control Act of 1944 is read *in pari materia* with Reclamation Laws.⁸ In 1977, the Department of Energy Organization Act transferred the power marketing functions of the Department of Interior to Western.⁹ Pursuant to this authority, Western markets Federal hydropower.

The applicable portions of the main authorizing statutes, specifically the Reclamation Project Act of 1939 (providing for contracts to provide power) and the 1977 Department of Energy Organization Act (transferring power marketing functions of the Department of Interior to a yet to be named agency under DOE) are included in the OMB package submission.

There is no other DOE collection tool in place to collect this needed information.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection .

Western will continue to collect the information through the use of the Applicant Profile Data form (APD). When Western issues a call of applications for federal power, respondents who are interested in receiving an allocation of federal power must submit their applications to Western using the APD – all respondents use the same APD. The APD may be sent to Western by mail, fax, electronically or completed on line. The APD, whether on paper or on-line will identify the OMB Control Number, the estimated burden and expiration date. The information collected will continue to be used by Western (and specifically the individual Regions within Western) to determine eligibility and amount of allocation. The Energy Planning and Management Program¹⁰ and the individual project marketing plans provide the methodology and criteria Western must follow in performing its resource allocation duties. The information collected will be used (and has been used under the current collection number) to determine whether an applicant is an eligible preference entity, whether it falls within a marketing area, and whether it is ready, willing and able to receive and/or distribute Federal power. Given the high demand and limited available power, Western will use (and under the current collection

⁴ See Ch. 418, 53 Stat. 1187 (1939), as amended and supplemented.

⁵ See, e.g., Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

⁶ See, e.g., Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

⁷ 43 U.S.C. § 485h(c).

⁸ See Act of December 22, 1944, Ch. 665, 58 Stat. 887), as amended and supplemented.

⁹ See 42 U.S.C. § 7152(a)(1)(E).

¹⁰ See 10 C.F.R § 905.

number has used) the capacity and energy requirements of all eligible applicants to determine how much power (if any) will be allocated to an applicant.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The APD will be accessible for downloading via Western's Web site at ww2.wapa.gov. Taking into consideration the use of information technology to reduce the burden, Western will accept electronic-mail submission of the APD and starting in April 2014, applicants can enter the information in an electronic form on Western's Web site. Western also took into consideration that some of the applicants may not have the technology available to submit electronic-mail submissions, so submission via fax or regular mail will also be accepted. Western will include the specific Web address to fill out the APD or download the APD when Western publishes a notice for a Call for Applications in the *Federal Register*. Western only considers applications received during this formal process noticed in the *Federal Register*. Western does not leave the APD on its Website outside of these times.

4. Describe efforts to identify duplication.

The collection of information under the APD will not be a duplication of reporting or available information. In fact, the information sought under the APD is not collected by other means or in another form by DOE or Western. To avoid unnecessary duplication, only entities who desire a new Western allocation are required to submit an APD.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This collection of information will not have a significant impact on small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Without the collection of this information, Western will not be able to fulfill its mission required by statute, implementing regulations, and its marketing plans because Western will have no information on who desires an allocation of Federal power or whether such entities qualify for preference under Federal law. This information collection is a one-time collection when Western has available power available under an allocation process. Western's executes long term contracts with successful applicants. In the past, such contracts have been for 20 years. Under past Marketing Plans, Western has provided its existing customers the option to renew their existing contracts without re-submitting an APD.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to

report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than 3 years; (e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances, and the information collected will be conducted in a manner consistent with OMB guidelines.

- 8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting public comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burdens. Describe efforts to consult with persons outside DOE to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The 60-day *Federal Register* notice required under 5 C.F.R. 1320.8(d), which requests comments, was published in the *Federal Register* at Vol. 79, No. 63, at page 18545, April 2, 2014. In addition to requesting comments through publishing the 60-day *Federal Register* notice and in an effort to consult with those outside the agency, Western sent a notice to over 1,000 potentially interested entities informing them of the publication of the *Federal Register* notice and invitation for comments. This notice took the form of an e-mail to interested entities from Western's Regional Offices located in California, Arizona, Montana, Colorado and Utah. The notices were sent to stakeholders in Western's service territory, which includes (but is not limited to) California, Nevada, Arizona, Utah, New Mexico, Colorado, Wyoming, Montana, Texas, North Dakota and South Dakota. Western received no comments.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Western will not, and has not provided any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The proposed collection of information in this program will not be part of a system of records covered by the Privacy Act¹¹ and will be available under the Freedom of Information Act.¹²

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOE considers the questions necessary, the specific uses to be made of the information., the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of the information requested in the APD is of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

There is only one collection instrument proposed, specifically the APD. By law, Western receives applications for power from the following class of respondents: municipalities, cooperatives, public utilities, irrigation districts, Native American Tribes, Federal and State agencies.¹³ The respondents will be located in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming. Depending on the amount of power that becomes available for allocation, Western anticipates it will receive approximately 100 requests from the above entities for power during the 3-year period when the OMB Clearance Number is in effect. The responses will be periodic and occur when Western has power available under an allocation process.

The number of Burden Hours for completing the APD is estimated as follows. Western anticipates that it will take less than 8 hours to complete the APD, which includes the time needed to search any data sources, gather the information, and review the information. Western based this estimate on input from prospective applicants during previous processes. Once the respondent completes the APD, it will submit the APD to Western for Western's review. After submitting the APD, provided the APD is complete and no clarification is required, Western does not anticipate requiring any further information for the APD from the applicant, unless the applicant is successful in

¹¹See 5 U.S.C. § 552(a).

¹²See 5 U.S.C. § 552. Western reserves the right to redact information to protect confidential or sensitive information, as provided under FOIA.

¹³ See, e.g., 43 U.S.C. § 485h(c).

obtaining a power allocation. The applicant submits only one APD. It does not submit an APD every year. If the applicant receives a power allocation, the applicant will need to complete a standard contract to receive its power allocation.

The annual recordkeeping burden is estimated as follows. There are no mandatory recordkeeping requirements of the applicant if it does not receive an allocation of Federal power. In such cases, any recordkeeping of the APD by a respondent is voluntary. For those entities that receive a Federal power allocation, Western requires the successful applicant keep the information for 3 years after the applicant signs its Federal power contract. The 3-year, record retention policy will allow Western sufficient time to administer the contract and to ensure the applicant provided factual information in its application. A 3-year, record retention policy will have little impact on most businesses in the electric utility industry. Western anticipates that it would take less than 1 hour per successful candidate, per year, for recordkeeping purposes. Western anticipates that in a 3-year period, Western will have approximately 30 successful applicants out of the 100 that are expected to apply.

Based on the total number of burden hours and the total number of applications described above, Western expects that over a 3-year period, the total burden hours to complete the APD is 800 hours over 3 years (100 applicants over 3 years x 8 hours per applicant). This converts to an annual hourly burden of 266.667 hours. An entity will only complete the APD once. It is not required each year.

Additionally, based on the above, Western anticipates that there will be a burden for recordkeeping of 1 hour per year for each successful applicant, i.e., each applicant who receives a Federal power allocation. Western anticipates that over the course of 3 years there will be 30 successful applicants. The power may be allocated in year 1, year 2 or year 3. For the purposes of determining the cost burden, Western will presume all 30 applicants received an allocation in year 1. As a result, the annual hourly burden for recordkeeping is 30 hours.

Table 1: Annual Hour Burden Estimates

Activity	Number of respondents	Number of responses per respondent	Average burden hour per response	Sub-total burden hours
APD	33.333	1	8	0
Record Keeping	30	1	1	0
			Total Burden	0

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

For the purposes of this cost burden analysis, Western is assuming that a utility staff specialist will complete the APD. Western estimates a utility staff specialist rate, including administrative overhead, to be approximately \$112/hour. For recordkeeping, Western estimates an administrative support rate of \$56/hour. Based on the above,

Western estimates the total annual cost as (266.667 hour/year x \$112/hour) + (30 hour/year x \$56/hour) = \$31,546.67 per year.

Table 2: Annual Cost Burden Estimate

Instrument	Number of respondents	Number of responses per respondent	Average annual burden hour	Cost per burden hour	Cost per response	Sub-total cost
Prepare APD	33.333	1	8	\$112	0	0
Record Keeping	30	1	1	\$56	0	0
				Total Cost		0

Using the above estimates, on a per applicant basis, assuming the applicant receives a Federal power allocation, the total cost for the applicant over a 3-year period is \$1,064. The \$1,064 breaks down as follows: (1) the cost to complete the APD is a one-time cost of \$896; and (2) in addition to the one-time cost, the applicant, if it successfully receives a power allocation, will incur an additional expense of 1 hour for recordkeeping per year x \$56 per hour for a total recordkeeping cost of \$168 for 3 years.

14. Provide estimates of annualized cost to the Federal government.

The annual estimated costs to Western for evaluating the APDs includes documenting the receipt of the APD, extracting the information from the APD into a spreadsheet or usable database/table, verification of the validity of the information, evaluating the APD, determining the proposed allocations, and maintaining an organized collection of the APD. Western estimates the above takes approximately 3 hours per application. Western’s average labor rate for this evaluation is \$90 per application.

There is no specialized equipment necessary for the evaluations.

Table 3: Annual Federal Cost Burden

Instrument	Number of respondents	Number of responses per respondent	Average annual burden hour	Cost per burden hour	Cost per response	Total annual cost
Evaluate APD	33.333	1	3	\$90	0	0000

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

For item 13, Western notes there was an error in entering the data in 2011. In 2011, Western had justified 33.3 annual respondents; however, 30 respondents was entered into ROCIS. In 2014, Western has continued to estimate 33.3 annual respondents. Western will have the error corrected in the 2014 inputs.

For item 14, Western included the estimated cost for the federal government to administer this information collection. Although the evaluation of the APD occurs during Western's normal course of business and is not tracked separately, Western estimated the cost to administer the collection based on quantification of staff hours, and operational expenses (such as equipment, overhead, printing, and support staff). This was not previously accounted for in the 2011 submission.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information contained in the response to the collection of information (APD) will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Western will display the OMB number and expiration date on the APD.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

Western has no exceptions to the certification statement in item 19 of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods.

The information collection does not employ statistical methods.