
Supporting Statement for Western Area Power Administration Applicant Profile Data Form

Part A: Justification

OMB No. 1910-5136

WAPA F 250 - Western Area Power Administration (WAPA) Applicant Profile Data



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U.S. Department of Energy
Washington, DC 20585

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Introduction

Provide a brief introduction of the Information Collection Request. Include the purpose of this collection, note the publication of the 60-Day Federal Register Notice, and provide the list of forms within this collection.

WAPA is requesting a 3-year extension of its clearance for OMB No. 1910-5136, Western Area Power Administration Applicant Profile Data (APD) form. WAPA is a power marketing administration within the Department of Energy, with a mission to market and federal hydropower. Pursuant to various authorizing legislation and power marketing plans, WAPA must obtain information from potential power recipients to determine eligibility and how much power can be allocated to each entity; the APD form (WAPA F 250) is the means by which WAPA collects this information.

WAPA published the 60-day Federal Register Notice on May 22, 2020 (85 Fed. Reg. 31180).

A.1. Legal Justification

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 (WAPA) is a Federal agency under the Department of Energy (DOE) that markets and transmits wholesale electrical power from 57 Federal hydropower plants in a service area that covers 1.3 million square-miles in 15 states. WAPA markets and transmits about 10,000 megawatts of hydropower across an integrated 17,231-circuit-mile, high-voltage transmission system. WAPA's mission is to deliver this power to its customers, which include municipalities, cooperatives, public utilities, irrigation districts, Native American tribes, and Federal and State agencies.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 WAPA has to market is limited. WAPA's Administrator has discretion in determining who may receive an allocation of Federal power. Due to the high demand for WAPA's power, WAPA needs the ability to collect information in order to evaluate who may receive an allocation of Federal power pursuant to specific marketing plans. As a result, the information WAPA collects is both necessary for the proper performance of its functions and is useful in performing those functions. WAPA will use the information collected pursuant to its marketing plans to determine an applicant's eligibility.

The basis of WAPA's authority is the Reclamation Laws, which are a series of laws arising from the Desert Land Act of 1877 and include but are not limited to: the Desert Land Act of 1877, 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

¹ See, e.g., 43 U.S.C. § 485h(c).

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 purposes of the reclamation program and specified certain terms for contracts that the Secretary of the Interior enters into to furnish water and power.⁴ In 1977, the Department of Energy Organization Act transferred the power marketing functions of the Department of Interior to the Secretary of Energy, acting by and through a separate Administrator for WAPA.⁵ Section 5 of the Flood Control Act of 1944 is read *in pari materia* with Reclamation Laws with respect to WAPA.⁶ Pursuant to this authority, WAPA 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, WAPA, under DOE) are included in the OMB package submission.

A.2. Needs and Uses of Data

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

WAPA will continue to collect the information through the use of the Applicant Profile Data form (APD). When WAPA issues a call for applications for Federal power under a marketing plan, respondents who are interested in receiving an allocation must submit their data to WAPA using the APD. The APD may be sent to WAPA by mail or electronically. The APD will identify the OMB Control Number, the estimated burden, and expiration date. The information collected will continue to be used by WAPA (specifically the individual Regions within WAPA) to determine eligibility and amount of the allocation. Individual project marketing plans provide the methodology and criteria WAPA 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 if it is ready, willing and able to receive and/or distribute Federal power. Given the high demand and limited available power, WAPA will use (and under the current collection 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 under a marketing plan.

Sections 1.a. and 1.b. of the form ask the applicant for contact information for the applicant and representative, if any. Sections 1.c - f. ask the applicant to identify the type of entity/organization which

² See, Ch. 107, 19 Stat. 377 (1877), 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.

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

⁵ See, 42 U.S.C. § 7152(a)(1)(D).

⁶ See, Act of December 22, 1944, Ch. 665, 58 Stat. 887, as amended and supplemented.

WAPA uses to determine if the applicant is eligible under WAPA's legislation and the applicable marketing plan. Section 1.g. asks the applicant to describe its geographic service area, which WAPA uses to determine if the applicant is within WAPA's service territory. Section 1.h. asks the applicant to indicate whether it owns and operates its own electric utility system, which helps WAPA verify the applicant's ability to receive power. Section 1.i. asks the applicant to provide the date of attaining utility status, which further helps WAPA verify that the applicant meets the requirement of being a utility. Section 1.j. provides contact information for billing matters, which WAPA uses to set up billing arrangements and send bills.

Section 2.a. indicates the amount of power being requested by the applicant.

Sections 3.a.i-iv. ask the applicant to provide information about electricity demand, number and type of retail customers, power factor, and information that may impact electricity demand in the coming five years. This information helps WAPA balance allocations across multiple applicants, and to understand how demand could change over time. Section 3.b.i-iv. asks for similar information from Native American tribal applicants.

Section 4.a-c. asks the applicant for information about their other power resources. This information helps WAPA understand the proportion of the applicant's power that WAPA does or might serve and is by WAPA to adjust power allocations to best serve multiple applicants.

Section 5.a-c. asks the applicant to provide information about transmission availability and arrangements. Transmission is the physical means by which the power can be received by the applicant, so WAPA uses this information to verify that transmission exists to deliver power to the applicant at their requested point of delivery.

Section 6. invites the applicant to provide other pertinent information.

Section 7. requires the signature of an applicant, attesting to the validity of the information provided by the applicant.

A.3. Use of Technology

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 is accessible for download via WAPA's website at <https://www.wapa.gov/PowerMarketing/ApplicantDataDocs/FormAPD%202020.pdf> and www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx. WAPA has updated the form to allow for ease of electronic completion (fillable) and has created versions in Microsoft Word and Adobe Acrobat to support electronic and/or digital signatures. WAPA also recognizes some applicants may not have the technology available to submit electronic submissions, so submission via regular mail will also be accepted. WAPA only considers applications received during a marketing plan process, and WAPA's marketing plans are published in the *Federal Register*.

From 2017-2020, WAPA held three calls for applications for three separate marketing plans and received 48 applications during that period. Of those applications, 23 percent were submitted electronically via email or via an online survey tool and 77 percent were sent via mail delivery (USPS, UPS or FedEx). With the improved usability of the form, specifically the ease of completing it electronically, WAPA expects the number of applications sent electronically to increase.

A.4. Efforts to Identify Duplication

Describe efforts to identify duplication.

The collection of information under the APD will not be a duplication of reporting or available information. The information sought under the APD is not collected by other means or in another form by DOE or WAPA, or any other agency. Due to the geographical boundaries of WAPA's marketing plans and service territory, any respondents would not be submitting the same information to other agencies. To avoid unnecessary duplication, only entities who desire a new WAPA allocation are required to submit an APD during a marketing plan process.

A.5. Provisions for Reducing Burden on Small Businesses

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.

A.6. Consequences of Less-Frequent Reporting

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, WAPA will not be able to fulfill its mission required by statute, implementing regulations, and its marketing plans because WAPA 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 only occurs when WAPA has available power available under a marketing plan allocation process. WAPA executes long-term contracts with successful applicants. In the past, such contracts have been for 20-50 years. Under past marketing plans, WAPA provided its existing customers the option to renew their existing contracts without re-submitting an APD, thus avoiding burden for existing customers.

A.7. Compliance with 5 CFR 1320.5

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 three years; (e) in connection with a statistical survey, that is not designed to product 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 statute 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.

WAPA received one comment, a day after the comment period closed, that raised a concern that some of the information requested on the form may be Critical Infrastructure Information (CII) but WAPA does not indicate how CII would be recognized or how it would be protected.

Applicants do not need to include Critical Electrical Infrastructure Information (CEII) when submitting an applicant profile data form. However, to the extent an applicant chooses to include CEII and wishes to have that information protected, the applicant will need to request protection of that information in accordance with the Department of Energy's CEII regulations at 10 CFR Part 1004.

A.8. Summary of Consultations Outside of the Agency

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 5CFR 320.8(d), soliciting 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 burden. 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 report.

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. 85, No. 100, at page 31180, May 22, 2020. In addition to this constructive notice, WAPA emailed over 1,000 stakeholders (customers and customer associations) and provided an invitation for comments and informed them of the *Federal Register* notice and comment period. The email went to customers in WAPA'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. The comment period closed July 21, 2020.

As noted above in item 7, WAPA received one comment, a day after the comment period closed, on July 22, 2020.

Comment: The comment raised a concern that some of the information requested on the form may be critical infrastructure information but WAPA does not indicate how CII would be recognized or how it would be protected.

Response: Applicants do not need to include Critical Electrical Infrastructure Information (CEII) when submitting an applicant profile data form. However, to the extent an applicant chooses to include CEII and wishes to have that information protected, the applicant will need to request protection of that information in accordance with the Department of Energy's CEII regulations at 10 CFR Part 1004.

WAPA posted this comment and response to its public website at <https://www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx>.

A.9. Payments or Gifts to Respondents

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

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

A.10. Provisions for Protection of Information

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

WAPA does not promise confidentiality of the applications and the information submitted will be available if requested, under the Freedom of Information Act.⁷ However, to the extent applicants include and request protection for CEII, WAPA will protect such information according to the Department of Energy's CEII regulations at 10 CFR Part 1004. See items 7 and 8 above.

A.11. Justification for Sensitive Questions

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.

A.12A. Estimate of Respondent Burden Hours

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, WAPA receives

⁷See, 5 U.S.C. § 552. WAPA reserves the right to redact information to protect confidential or sensitive information, as provided under FOIA.

applications for power from the following class of respondents: municipalities, cooperatives, public utilities, irrigation districts, Federal and State agencies, and Native American Tribes.⁸ 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, WAPA anticipates approximately 100 requests from the above entities for power during the 3-year period when the OMB Control Number is in effect. The responses will be periodic and occur when WAPA has power available under a marketing plan allocation process.

The number of Burden Hours for completing the APD is estimated as follows. WAPA anticipates that it will take less than 7.5 hours to complete the APD, which includes the time needed to search any data sources, gather the information, and review. WAPA based this estimate on input from prospective applicants during prior iterations of the APD process, and reduced the estimate by 0.5 hours to account for increased ease of completing the APD form, which can now be easily filled in Microsoft Word or Adobe Acrobat and electronically or digitally signed and electronically submitted. Once the respondent completes the APD, it will submit the APD to WAPA for review. The applicant submits only one APD per marketing plan. After submitting the APD, provided the APD is complete and no clarification is required, WAPA does not anticipate requiring any further information from the applicant, unless the applicant is successful in obtaining a power allocation. The applicant 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.

Based on the total number of burden hours and the total number of applications described above, WAPA expects that over a 3-year period, the total burden hours to complete the APD is 750 hours over 3 years (100 applicants over 3 years x 7.5 hours per applicant). This converts to an annual hourly burden of 250 hours. An entity will only complete the APD once. It is not required each year.

Additionally, based on the above, WAPA 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. WAPA 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.

⁸ See, e.g., 43 U.S.C. § 485h(c).

Table A1. Estimated Respondent Hour Burden

Form Number/Title (and/or other Collection Instrument name)	Type of Respondents	Number of Respondents	Annual Number of Responses	Burden Hours Per Response	Annual Burden Hours	Annual Reporting Frequency
Applicant Profile Data	Utility	33	33	7.5	247.5	1
Record Keeping	Utility	30	30	1	30	1
TOTAL					277.5	

A.12B. Estimate of Annual Cost to Respondent for Burden Hours

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under ‘Annual Cost to Federal Government’.

Based on the above, WAPA estimates the total annual cost as $[(7.5 \times \$121) \times 33] + [(1 \times \$60) \times 30] = \$31,747.50$ per year. Using the above estimates, the applicant’s cost to complete the APD is a one-time cost per response of \$907.50. In addition to the one-time cost, the applicant will incur an additional expense of 1 hour for recordkeeping per year at the administrative support rate of \$60/hour if it successfully receives a power allocation under a marketing plan. The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

For the purposes of this cost burden analysis, WAPA is assuming that a utility staff specialist will complete the APD. WAPA estimates a utility staff specialist rate, including administrative overhead, to be approximately \$121/hour⁹. 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.

Table A1: 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	1	7.5	\$121	\$ 907.50	\$ 29,947.50
Record Keeping	30	1	1	\$60	0	\$ 1,800.00

⁹ Rate is derived by employee hourly rate plus benefits and percentage share of WAPA's indirect expenses (space, utilities, administrative and general expenses) in support of the operation and maintenance of WAPA's transmission system.

Total	\$ 31,747.50
Cost	

A.13. Other Estimated Annual Cost to Respondents

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

There are no capital or start-up costs, and no equipment to be purchased, therefore there is no ongoing operations and maintenance costs.

A.14. Annual Cost to the Federal Government

Provide estimates of annualized cost to the Federal government.

The annual estimated costs to WAPA for evaluating the APDs include 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. WAPA estimates the above takes approximately 3 hours per application. WAPA’s average fully burdened labor rate for this evaluation is \$112.49 per hour¹⁰. WAPA estimates the annual cost to the Federal government is \$ 11,136.51.

There is no specialized equipment necessary for the evaluations.

Table A3: 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	1	3	\$ 112.49	0337.47	\$ 11,136.51

A.15. Reasons for Changes in Burden

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

WAPA adjusted the average annual cost burden to 7.5 hours. This reduction of 0.5 hours from the 2017 estimate is due to the ease of filling the form electronically, signing the form electronically or digitally, and sending the form via e-mail.

The increase in cost burden is due to a \$0 burden incorrectly being reported during the last submission.

¹⁰ Rate is derived by employee hourly rate plus benefits and percentage share of WAPA's indirect expenses (space, utilities, administrative and general expenses) in support of the operation and maintenance of WAPA's transmission system.

Table A4. ICR Summary of Burden

	Requested	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Total Number of Responses	33			33.33
Total Time Burden (Hr)	277.5		-19.5	297
Total Cost Burden	\$31,747.50		+\$31,747.50	\$0

A.16. Collection, Tabulation, and Publication Plans

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.

A.17. OMB Number and Expiration Date

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

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

A.18. Certification Statement

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

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