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# Supporting Statement for WAPA Applicant Profile Data

## **Part A: Justification**

**OMB No. 1910-5136**

*Western Area Power Administration*

*Applicant Profile Data (APD) form*

January 2024

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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 uses the Applicant Profile Data (APD) form to collect information from entities seeking a federal hydropower allocation through its established marketing plans. The information is used to evaluate each entities eligibility, and ultimately determine which entities will receive an allocation. WAPA published a 60-day comment period in the *Federal Register* on July 31, 2023, to solicit comments on the renewal of the APD. The comment period closed Sept. 29, 2023, and no comments were received.

### 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 17,279-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.<sup>1</sup> 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 to evaluate who may receive an allocation of Federal power pursuant to specific marketing plan. 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

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<sup>1</sup> See, e.g., 43 U.S.C. § 485h(c).

Central Valley Project Authorizing Act of 1937.<sup>2</sup> The Reclamation Act of 1902 established the Federal reclamation program.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> Section 5 of the Flood Control Act of 1944 is read *in pari materia* with Reclamation Laws with respect to WAPA.<sup>6</sup> 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.

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

## 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 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 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 amount of power available, 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.

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<sup>2</sup> 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.

<sup>3</sup> See, Ch. 1093, 32 Stat. 388, as amended and supplemented.

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

<sup>5</sup> See, 42 U.S.C. § 7152(a)(1)(D).

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

### **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 [www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx](http://www.wapa.gov/PowerMarketing/Pages/applicant-profile-data.aspx). WAPA has updated the form to ensure metadata is compliant with standards in Section 508 of the Rehabilitation Act of 1973.<sup>7</sup> The Adobe Acrobat form can be completed electronically (fillable) and supports digital signatures for a 100% electronically collected submission. 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*.

### **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 any other federal agency or in another form by DOE or WAPA. 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 is used when WAPA has power available under a marketing plan

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<sup>7</sup> See, 29 U.S.C § 794(d).

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.

### **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 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 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; or**
- (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.

### **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. 88, No. 145, at page 49458, July 31, 2023. 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: Arizona, California, Colorado, Montana, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming. The comment period closed September 29, 2023. No comments were received.

### **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.**

The proposed collection of information in this program will not be part of a system of record covered by the Privacy Act<sup>8</sup> and will be available under the Freedom of Information Act.<sup>9</sup> To the extent applicants include and request protection for Critical Electric Infrastructure Information (CEII), WAPA will protect such information according to the Department of Energy's CEII regulations at 10 CFR Part 1004.

### **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.

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<sup>8</sup>See, 5 U.S.C. § 552(a).

<sup>9</sup>See, 5 U.S.C. § 552. WAPA reserves the right to redact information to protect confidential or sensitive information, as provided under FOIA.

## 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 applications for power from the following class of respondents: municipalities, cooperatives, public utilities, irrigation districts, Federal and State agencies, and Native American Tribes.<sup>10</sup> 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 entities within the states listed above during the 3-year period when the OMB Clearance 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. Upon completion of the APD, the applicant will submit the APD either electronically or in writing 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 the 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 742.5 hours over 3 years (100 applicants over 3 years x 7.5 hours per applicant). This rounds up to an annual hourly burden of 248 hours. An entity will only complete the APD once. It is not required each year.

**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 Staff	33	33	7.5	247.5	1
Record Keeping	Utility Staff	30	30	1	30	1
<b>TOTAL</b>					<b>277.5</b>	

<sup>10</sup> See, e.g., 43 U.S.C. § 485h(c).

## 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’.**

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 \$70/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 \$140.50/hour. 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, WAPA 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 WAPA 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. WAPA anticipates that it would take less than 1 hour per successful applicant, per year, for recordkeeping purposes. WAPA anticipates that in a 3-year period, WAPA will have approximately 30 successful applicants out of the 100 that are expected to apply. 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. The Federal power may be allocated in year 1, year 2, or year 3. For the purposes of determining the cost burden, WAPA will presume all 30 successful applicants received an allocation in year 1. As a result, the annual hourly burden for recordkeeping is 30 hours. For recordkeeping, WAPA estimates an administrative support rate of \$70/hour.

Based on the above, WAPA estimates the total annual cost as  $[(7.5 \times \$140.50) \times 33] + [(1 \times \$70) \times 30]$  = \$36,944.00 per year. Using the above estimates, the applicant’s cost to complete the APD is a one-time cost per response of \$1,050.00.

**Table A2. Estimated Respondent Cost Burden**

Type of Respondents	Total Annual Burden Hours	Hourly Wage Rate	Total Respondent Costs
Utility Staff	248	\$140.50	\$34,844.00
Utility Support Staff	30	\$ 70.00	\$ 2,100.00
			0
<b>TOTAL</b>	<b>278</b>		<b>\$36,944.00</b>

### 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.

No additional costs are estimated for applicants.

### 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 \$144.34 per hour. WAPA estimates the annual cost to the Federal government is \$ 14,432.56.

There is no specialized equipment necessary for the evaluations.

### 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.

In Item 12, WAPA adjusted the average annual cost burden to \$140.50 per hour. While the average annual burden hours remain the same as in 2020, specifically 7.5 hours to complete a response, the increased cost reflects the percentage change in Core Consumer Price Index (CPI) in the past 3 years.

Similarly in Item 14, the average fully loaded rate for evaluating applications has increased from \$121 per hour in 2020 to \$144.34 per hour in 2023.

**Table A3. 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	0	0	33
Total Time Burden (Hr)	278	0	0	278
Total Cost Burden	\$36,944	0	\$5,196	\$31,748

### 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.