

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT
Inflation Reduction Act Wage Rates and Wage Determinations
OMB Control Number: 1235-0034
Expiration 06/2023

The U.S. Department of Labor (Department) proposes to extend this information collection, *Inflation Reduction Act Wage Rates and Wage Determinations*. This collection is associated with the Inflation Reduction Act (IRA), Public Law 117-169, 136 Stat. 1818 (August 16, 2022). The Department submitted this ICR under an Emergency Processing Request pursuant to 5 CFR 1320.13, on September 29, 2022. OMB approved the request and issued OMB control number 1235-0034 with an expiration date of 06/2023.

Part 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 collection of information.**

The Department created this ICR in coordination with the U.S. Department of Treasury as they issued guidance triggering the availability of enhanced tax provisions for certain energy projects in which prevailing wages (as most recently determined by the Secretary of Labor in accordance with the Davis-Bacon Act) are paid and registered apprentices are employed. Taxpayers will generally be able to find the applicable prevailing wage rates for the various classifications of laborers and mechanics for the construction of their facility in wage determinations published on www.sam.gov. However, if no applicable wage determination is available on www.sam.gov, or if the wage determination that applies to the taxpayer's project does not include wage rates for all of the labor classifications that will be needed for the construction, alteration, or repair of the facility, the guidance specifies a process by which a taxpayer may request a wage determination or wage rate from the Wage and Hour Division (WHD). This type of information is already collected from a different universe of contractors, those covered by the Davis-Bacon Act (DBA) or Davis-Bacon Related Acts (DBRA) under existing ICR 1235-0023. The Department created the new ICR rather than amending 1235-0023 because 1235-0023 is currently encumbered by a separate action related to a rulemaking: Updating the Davis-Bacon and Related Acts (87 FR 15698, Mar. 18, 2022). Once the rulemaking is finalized and the Department has extended this ICR running the full PRA process, the Department will move to combine both ICRs under OMB control number 1235-0023.

On August 16, 2022, President Biden signed H.R. 5376 (P.L. 117-169), a budget reconciliation measure commonly referred to as the "Inflation Reduction Act of 2022" (IRA). The IRA contains several sections that provide enhanced tax incentives to pay prevailing wages.

Section 13101, Extension and Modification of Credit for Electricity Produced from Certain Renewable Resources, extends and modifies the production tax credit under Internal Revenue Code (IRC) § 45 for electricity produced from certain renewable resources; increased credit amounts are available for taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13102, Extension and Modification of Energy Credit, extends and modifies the energy investment tax credit under IRC § 48 for investments in certain energy property; increased credit amounts are available for taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13104, Extension and Modification of Credit for Carbon Oxide Sequestration, extends and

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modifies the carbon oxide capture credit under IRC § 45Q for industrial carbon capture or direct air capture (DAC) facilities; increased credit amounts are available for taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13105, Zero-Emission Nuclear Power Production Credit, creates a new tax credit for qualifying nuclear power under IRC § 45U; increased credit amounts are available for taxpayers satisfying prevailing wage requirements.

Section 13204, Clean Hydrogen, creates a new tax credit for the qualified production of clean hydrogen under IRC § 45V increased credit amounts are available when prevailing wage and apprenticeship requirements are met.

Section 13303, Energy Efficient Commercial Buildings Deduction, modifies the deduction under IRC § 179D; increased credit amounts are available for taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13304, Extension, Increase and Modifications of New Energy Efficient Home Credit extends and modifies the energy efficient home credit under IRC § 45L; increased credit amounts depend on taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13404, Alternative Fuel Refueling Property Credit, extends and modifies the credit for qualified alternative fuel vehicle refueling property under IRC § 30C; increased credit amounts depend on taxpayers meeting prevailing wage and apprenticeship requirements.

Section 13501, Extension of the Advanced Energy Project Credit, provides \$10 million in allocations of a tax credit under IRC § 48C for qualifying investments in advanced energy projects; increased credit amounts are available for taxpayers satisfying prevailing wage and apprenticeship requirements.

Section 13701, Clean Electricity Production Credit, creates a new production tax credit under § 45Y for sale of qualified domestically produced clean electricity; increased credit amounts are available for taxpayers satisfying prevailing wage and apprenticeship requirements.

Section 13702, Clean Electricity Investment Credit, creates a new technology-neutral investment tax credit under IRC § 48E for qualifying facilities and energy storage technology; increased credit amounts are available for taxpayers satisfying prevailing wage and apprenticeship requirements.

Section 13704, Clean Fuel Production Credit, creates a new production tax credit for clean fuel production under IRC § 45Z increased credit amounts are available for taxpayers satisfying prevailing wage and apprenticeship requirements.

The increased credit and deduction amounts generally become effective for qualified facilities, projects, property, or equipment that begin construction (or begin installation under IRC § 179D) 60 days after publication of guidance by the Secretary of the Treasury.¹ The guidance states, in part:

¹ Treasury published their guidance in the Federal Register on November 30, 2022 (87 FR 73580).

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To rely on the procedures to request a wage determination or wage rate, and to rely on the wage determination or rate provided in response to the request, the taxpayer must contact the Department of Labor, Wage and Hour Division via email at IRAprevailingwage@dol.gov and provide the Wage and Hour Division with the type of facility, facility location, proposed labor classifications, proposed prevailing wage rates, job descriptions and duties, and any rationale for the proposed classifications. After review, the Department of Labor, Wage and Hour Division will notify the taxpayer as to the labor classifications and wage rates to be used for the type of work in question in the area in which the facility is located.

The IRA allows taxpayers to claim enhanced tax credit and deduction amounts in situations in which DBA rates are not required but are voluntarily paid as a condition of claiming the enhanced amount. The purpose of this ICR is to obtain approval to collect the data needed to issue wage rates for the universe of respondents who are not already included in the conformance request collection approved under 1235-0023 (those who are subject to the DBA and DBRA). This collection applies to those outside the scope of DBA/DBRA who will need an applicable wage determination or wage rates for classifications that are not in an applicable wage determination to satisfy prevailing wage requirements and thereby take the enhanced tax credit and deduction amounts under the IRA.

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.

Based on its experience with conformance requests, upon receipt of a request for a missing classification, WHD considers (1) the work of the proposed classification, which cannot be work that is performed by a classification already listed in the wage determination; (2) whether the construction industry uses the proposed classification in the area; and (3) whether the proposed wages and fringe benefits bear a reasonable relationship to the rates contained in the wage determination. Upon completion of the review, WHD approves, modifies, or disapproves the request and issues a determination. Data collected with respect to tax provisions associated with the IRA is used both by the Department of Labor to issue the wage rates for the type of work in question in the area which the facility is located and by the Department of Treasury for purposes of tax provision verification.

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, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Requests for wage rates for labor classifications of workers and for wage determinations are acceptable in any format, electronic or otherwise. Pursuant to the Government Paperwork Elimination Act (GPEA), WHD will accept electronic (email) submissions of such requests. The requester may submit their request for a wage rate or wage determination via email at IRAprevailingwage@dol.gov. The Department will share data with the Treasury Department on an

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as needed basis as part of its review of tax provision status. The Department will provide this data via a sharing letter.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The information is not available from any other source. While the data submitted is similar to data submitted by those subject to the DBA and DBRA, the universe of those who are submitting the data is different. This ICR also collects data for those seeking tax benefits related to prevailing wages who are not otherwise covered by the DBA and DBRA requirements. Further, at the conclusion of this action and the corresponding Davis-Bacon final rule, the Department will move to combine this ICR with OMB control number 1235-0023. The Department is collecting this data (as opposed to the Treasury Department who issued the guidance) because the Wage and Hour Division already performs the prevailing wage rate functions under the Davis Bacon Act and Davis Bacon Related Acts. This is cleared by OMB under OMB control number 1235-0023. As a matter of government efficiency there is no need for duplication of efforts and the Department of Treasury and Department of Labor in collaboration have determined it is more efficient for the taxpayer to make the request for prevailing wage rates directly to the Department of Labor.

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

This information collection does not have a significant impact on a substantial number of 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.**

The Department notes that for a taxpayer to take advantage of the enhanced tax provisions described in the Treasury guidance, it will be critical for them to have prompt access to needed wage rates.

Failure to collect the information would prevent WHD from issuing the required wage rates where a wage determination does not include all job classifications and could result in the public not being able to take advantage of the enhanced tax provisions provided by the IRA.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**

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- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **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;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or 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**
- **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.**

This information collection involves no special circumstances.

- 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 CFR 1320.8(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 by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record-keeping, disclosure, or reporting format (of any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Department published a notice in the Federal Register requesting comments on December 22, 2022. (87 FR 78712). No comments were received.

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

The Department offers no payments or gifts to respondents in connection with this information collection.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

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The Department makes no assurances of confidentiality to respondents. As a practical matter, the Department would only disclose information collected under these requests in accordance with the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552; and the attendant regulations, 29 CFR part 70, and the Privacy Act, 5 U.S.C. 552a; and related regulations, 29 CFR part 71.

- 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 the agency 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.**

This information collection asks no sensitive questions.

- 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, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **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.”**

The Department bases the following estimates on agency experience and workload data.

This is an information collection that covers a different universe of filers than those in the DBA/DBRA universe. Without historical data for these new provisions in the IRA, the Department’s estimates for size of the respondent universe and time burden for providing the information for each wage rate, from its experience with the DBA/DBRA universe submitting similar requests. (OMB control number 1235-0023).

A. Wage Rates/Wage Determinations/

The Department estimates respondents spend approximately 15 minutes providing information to a contracting agency regarding each conformance request, and further estimates that 8,500

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conformance reports are submitted annually for DBA/DBRA conformance requests (as approved already in the collection under OMB control number 1235-0023). As the program has just begun, the Department notes that few users are taking advantage of the program as yet. The Department believes the data so far has been insufficient to estimate burden and therefore the Department estimates 20% of the 8,500 conformance reports from ICR 1235-0023 as a base number for the additional burden resulting from taxpayers who may request from WHD wage rates for labor classifications that are not already included in the wage determinations.

Total respondents: $8,500 \times 0.2$ (20%) = 1,700

Total burden hours: 1,700 respondents \times 1 response \times 0.25 hours per request = 425 burden hours

Respondents: 1,700

Responses: 1,700

Burden Hours: 425

B. Wage Determinations

The Department received 137 requests for DBA/DBRA project wage determinations in FY22. The Department uses 20% of that number to estimate the number of wage determination requests it will receive from this new universe of those outside the DBA/DBRA sphere.

Total Respondents: 137×0.2 (20%) = 27 (rounded)

Total burden hours: 27 respondents \times 1 response \times 0.25 hours = 6.75 hours = 7 hours (Rounded in ROCIS).

Respondents: 27

Responses: 27

Burden Hours: 7

Total this collection-

Respondents: 1,727

Responses: 1,727

Burden Hours: 432 (rounded)

Absent specific data on salaries of employees in the construction industry who deal with wage determinations, the Department has used the seasonally adjusted January 2023 Table B-3, Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally. This rate is \$33.03. See the Employment Situation, January 2023, DOL, Bureau of Labor Statistics, Table B-3. To this amount, the Department adds 45% benefits cost (\$14.86) plus 17% overhead cost (\$5.61) for a total loaded wage rate of \$53.51.

Annual estimated respondent costs: 432 hours \times \$53.51 = \$23,116.32

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13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information (Do not include the cost of any hour burden already reflected on the burden worksheet).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

The Department has provided an email address to submit requests for additional wage rates and wage determinations related to the IRA. As a result, there should be minimal (if any) mailing costs. The Department estimates no capital/startup costs with this collection.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The Department estimates no federal costs associated with this collection.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

There are no programmatic changes or any changes to the burden.

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- 16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The Department does not plan to publish results of this information collection.

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

The Department is not requesting an exception to the requirement to display the expiration date on this information collection.

- 18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”.**

The Department is not requesting an exception to the certification requirements for these information collections.

Part B: EMPLOYING STATISTICAL METHODS

NA.