

you must do the work following BLM standards. For this purpose, you and BLM may enter into a written agreement. BLM will make the final determinations and conclusions arising from such work.

(d) BLM will periodically, as stated in the agreement, estimate processing costs for a specific work period and notify you of the amount due. You must pay the amount due before BLM will continue working on your application. If your payment exceeds the reasonable costs that BLM incurred for the work, BLM will either adjust the next billing to reflect the excess, or refund you the excess under 43 U.S.C. 1734. You may not deduct any amount from a payment without BLM's prior written approval.

§ 2804.20 How does BLM determine reasonable costs for Processing Category 6 or Monitoring Category 6 applications?

BLM will consider the factors in paragraph (a) of this section and § 2804.21 of this subpart to determine reasonable costs. Submit to the BLM field office having jurisdiction over the lands covered by your application a written analysis of those factors applicable to your project, unless you agree in writing to waive consideration of reasonable costs and elect to pay full actual costs (*see* § 2804.14(f) of this subpart). Submitting your analysis with the application will expedite its handling. BLM may require you to submit additional information in support of your position. While we consider your written analysis, BLM will not process your Category 6 application.

(a) *FLPMA factors.* If your application is for a Processing Category 6, or a Monitoring Category 6 project, the BLM State Director having jurisdiction over the lands you are applying to use will apply the following factors set forth at section 304(b) of FLPMA, 43 U.S.C. 1734(b), to determine the amount you owe. With your application, submit your analysis of how each of the following factors applies to your application:

(1) Actual costs to BLM (exclusive of management overhead costs) of processing your application and of monitoring construction, operation, maintenance,

and termination of a facility authorized by the right-of-way grant;

(2) Monetary value of the rights or privileges you seek;

(3) BLM's ability to process an application with maximum efficiency and minimum expense, waste, and effort;

(4) Costs incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant. That is, the costs for studies and data collection that have value to the Federal Government or the general public apart from processing the application;

(5) Any tangible improvements, such as roads, trails, and recreation facilities, which provide significant public service and are expected in connection with constructing and operating the project; and

(6) Other factors relevant to the reasonableness of the costs (*see* § 2804.21 of this subpart).

(b) *Fee determination.* After considering your analysis and other information, BLM will notify you in writing of what you owe. If you disagree with BLM's determination, you may appeal it under § 2801.10 of this part.

§ 2804.21 What other factors will BLM consider in determining processing and monitoring fees?

(a) *Other factors.* If you include this information in your application, in arriving at your processing or monitoring fee in any category, the BLM State Director will consider whether:

(1) Payment of actual costs would:

(i) Result in undue financial hardship to your small business, and you would receive little monetary value from your grant as compared to the costs of processing and monitoring; or

(ii) Create such undue financial hardship as to prevent your use and enjoyment of your right-of-way for a non-commercial purpose.

(2) The costs of processing the application and monitoring the issued grant grossly exceed the costs of constructing the project;

(3) You are a non-profit organization, corporation, or association which is not controlled by or a subsidiary of a profit-making enterprise; and

(i) The studies undertaken in connection with processing the application or