

Bureau of Land Management, Interior

§ 2804.25

analyses, you and any competing applicants must pay an equal share or a proportion agreed to in writing among all applicants and BLM. If you agree to share costs that are common to your application and that of a competing applicant, and the competitor does not pay the agreed upon amount, you are liable for the entire amount due. The applicants must pay the entire processing fee in advance. BLM will not process your application until we receive the advance payments.

(b) *Who determines whether competition exists?* BLM determines whether the applications are compatible in a single right-of-way system or are competing applications for the same system.

(c) If BLM determines that competition exists, BLM will describe the procedures for a competitive bid through a bid announcement in a newspaper of general circulation in the area affected by the potential right-of-way and by a notice in the FEDERAL REGISTER.

§ 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

You do not have to file an application using Standard Form 299 if:

(a) BLM determines that competition exists (*see* § 2804.23(c) of this subpart); or

Processing category	Processing time	Conditions
1-4	60 calendar days	If processing your application will take longer than 60 calendar days, BLM will notify you in writing of this fact prior to the 30th calendar day and inform you of when you can expect a final decision on your application.
5	As specified in the Master Agreement.	BLM will process applications as specified in the Agreement.
6	Over 60 calendar days	BLM will notify you in writing within the initial 60-day processing period of the estimated processing time.

(d) Before issuing a grant, BLM will:

(1) Complete a NEPA analysis for the application or approve a NEPA analysis previously completed for the application, as required by 40 CFR parts 1500 through 1508;

(2) Determine whether or not your proposed use complies with applicable Federal and state laws;

(3) If your application is for a road, determine whether it is in the public interest to require you to grant the

(b) You are an oil and gas operator. You may include your right-of-way requirements for a FLPMA grant as part of your Application for Permit to Drill or Sundry Notice under the regulations in parts 3160 through 3190 of this chapter.

§ 2804.25 How will BLM process my application?

(a) BLM will notify you in writing when it receives your application and will identify your processing fee described at § 2804.14 of this subpart.

(b) BLM may require you to submit additional information necessary to process the application. This information may include a detailed construction, operation, rehabilitation, and environmental protection plan, *i.e.*, a "Plan of Development," and any needed cultural resource surveys or inventories for threatened or endangered species. If BLM needs more information, we will identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time. BLM will notify you of any other grant applications which involve all or part of the lands for which you applied.

(c) *Customer service standard.* BLM will process your completed application as follows:

United States an equivalent authorization across lands that you own;

(4) Consult, as necessary, with other governmental entities;

(5) Hold public meetings if sufficient public interest exists to warrant their time and expense. BLM will publish a notice in the FEDERAL REGISTER, a newspaper of general circulation in the vicinity of the lands involved, or both, announcing in advance any public hearings or meetings; and

§ 2804.26

43 CFR Ch. II (10–1–13 Edition)

(6) Take any other action necessary to fully evaluate and decide whether to approve or deny your application.

(e)(1) The BLM may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804 for the generation of electrical energy from wind or solar sources. In addition, the Bureau of Land Management may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands would not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (30 U.S.C. 22 *et seq.*), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*) or the Materials Act of 1947 (30 U.S.C. 601 *et seq.*). The BLM would effect a segregation by publishing a FEDERAL REGISTER notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the FEDERAL REGISTER. Consistent with 43 CFR 2091–3.2, the segregation terminates and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the FEDERAL REGISTER notice initiating the segregation; or

(iii) Upon publication of a FEDERAL REGISTER notice terminating the segregation and opening the lands.

(3) The segregation period may not exceed 2 years from the date of publication in the FEDERAL REGISTER of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the State Director determines

an extension is necessary, the BLM will extend the segregation for up to 2 years by publishing a notice in the FEDERAL REGISTER, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

[70 FR 21058, Apr. 22, 2005, as amended at 76 FR 23205, Apr. 26, 2011; 78 FR 25213, Apr. 30, 2013]

§ 2804.26 Under what circumstances may BLM deny my application?

(a) BLM may deny your application if:

(1) The proposed use is inconsistent with the purpose for which BLM manages the public lands described in your application;

(2) The proposed use would not be in the public interest;

(3) You are not qualified to hold a grant;

(4) Issuing the grant would be inconsistent with the Act, other laws, or these or other regulations;

(5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way; or

(6) You do not adequately comply with a deficiency notice (*see* § 2804.25(b) of this subpart) or with any BLM requests for additional information needed to process the application.

(b) If BLM denies your application, you may appeal this decision under § 2801.10 of this part.

§ 2804.27 What fees do I owe if BLM denies my application or if I withdraw my application?

If BLM denies your application or you withdraw it, you owe the processing fee set forth at § 2804.14 of this subpart, unless you have a Processing Category 5 or 6 application. Then, the following conditions apply:

(a) If BLM denies your Processing Category 5 or 6 application, you are liable for all reasonable costs that the United States incurred in processing it. The money you have not paid is due within 30 calendar days after receiving a bill for the amount due.

(b) You may withdraw your application in writing before BLM issues a