

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
Joe Murray

MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Jeremy Verhasselt, Senior Performance Auditor

CC: Mike Tooley, Director, Department of Transportation
Dwane Kailey, Engineering Division Chief Operations Officer, Department of Transportation
Lynn Zanto, Rail, Transit and Planning Division Administrator, Department of Transportation

DATE: June 2019

RE: Performance Audit Follow-Up (19SP-15): *Funding Montana's Highway Infrastructure* (orig. 17P-06)

ATTACHMENTS: Original Performance Audit Summary

Introduction

The *Funding Montana's Highway Infrastructure* report (17P-06) was issued to the Legislative Audit Committee in June 2018. The audit included five recommendations to the Montana Department of Transportation (MDT). In May 2019, we conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

Our original audit found highway infrastructure prioritization and distribution processes did not ensure transparency, or fully support infrastructure funding decisions. We made five recommendations to MDT. Recommendations emphasized greater structure and transparency in the Performance Programming Process (P3) funding distribution decision making. Recommendations also addressed a need for greater consistency in district nomination and approval processes. Our follow-up work indicated an earnest effort by MDT to implement recommendations to improve processes in the future. We found three recommendations implemented, one being implemented, and one partially implemented. This memo also includes information on MDT operations required by House Bill (HB) 473 to be gathered for the follow-up audit. This includes information on department costs, employee counts, and contractor costs.

Background

For states to receive federal transportation funding, they are required to pay a percentage called the state share, which ranges from 8.76 percent to 13.42 percent. Prior to the 2017 Legislative Session there was concern state gas taxes would not be sufficient to cover the state share. The 2017 Montana Legislature passed HB 473 to increase fuel taxes used to pay the state's share of federal transportation funding. Part of this legislation included a required performance audit of certain aspects of MDT operations. This

coincided with the Legislative Audit Committee's request for an audit of MDT's infrastructure project nomination and federal funding distributions. HB 473 required a comparison of MDT operations to other states, and a follow-up audit gathering further information on MDT operations. This information will be presented in this follow-up along with information on implementation of the audit recommendations.

MDT operations are shared between staff located centrally in Helena and staff in each of the five MDT district offices located in Missoula, Butte, Great Falls, Billings, and Glendive. MDT's Rail, Transit, and Planning Division (Planning Division) in Helena is responsible for supporting Montana's multimodal transportation system through the distribution of over \$229 million in infrastructure funding in federal fiscal year 2019. As part of the original audit, we reviewed the Planning Division's P3 process used to determine distribution decisions to the primary highway, national highway, and interstate systems (core systems) across the state. We found P3 business practices were not defined by the department, limiting MDT staff and stakeholder understanding of the process. Our review of P3 decision-making processes found they were largely informed by pavement condition information in the Pavement Management System (PvMS). PvMS is a road grading system MDT uses to collect data on the core systems in the state. We found PvMS information lacked proper review to ensure its accuracy when used in P3 distribution and district nomination decisions.

District staff are responsible for determining what projects address the greatest roadway infrastructure needs in their district and nominating those projects. Nominated projects are subject to final approval by the Transportation Commission. We found infrastructure project nomination decisions made in the five districts lacked formalized, consistent, and documented processes. The original audit made one recommendation to improve understanding and transparency in the P3 distribution process, one recommendation to improve accuracy of PvMS information, two recommendations to formalize and improve consistency in the nomination process, and one recommendation to pursue statutory change to align statute with industry best practices for distribution of infrastructure funding to the primary highway system.

Audit Follow-up Results

As part of our follow-up work, we conducted interviews with MDT staff, reviewed work done on P3 process documentation by MDT's hired consultant, reviewed related legislation from the 2019 Legislative Session, examined revised nomination policy and procedure, and gathered MDT operations information required by HB 473. The following sections summarize information relating to follow-up work and the implementation status of recommendations.

RECOMMENDATION #1

We recommend the Department of Transportation create and implement procedure that includes:

- A. Defining roles and level of involvement for department staff responsible for the Performance Programming Process,**
- B. Outlining decision making processes for determining inputs into the Pavement Management System that influence funding distributions, and**
- C. Formalizing business processes for the entire Performance Programming Process.**

Implementation Status – *Being Implemented*

This recommendation sought to increase transparency in MDT funding distribution decisions for the core systems in the five MDT districts. Greater transparency will lead to a greater understanding of P3 by MDT staff involved in distribution decisions, legislators, citizens, and other stakeholders. MDT has hired a consultant to address this recommendation. The consultant is tasked with the development of P3 and

training materials to meet the different parts of the recommendation. The stated goals of their work are the following:

- A complete P3 manual that combines guiding policies, objectives, and processes which also clearly defines staff roles.
- An updated presentation template used to communicate P3 information and educate relevant MDT staff and decisions makers about the process.

We reviewed the materials provided by the consultant which outline their work. This included the project management plan, the project overview, and progress reports provided to MDT. We interviewed MDT management and staff regarding their views of the consultant's work, and progress being made by the consultant. They indicated they are satisfied with the consultants work, and believe it will lead to a product that satisfies the recommendation. After review of the consultant's plans, we concur this will satisfy the three parts of the recommendation if completed as stated in the project documentation. However, their anticipated finish date is June 30, 2019, so the consultant's final product was not available at the time of our follow-up work.

RECOMMENDATION #2

We recommend the Department of Transportation develop and implement policy requiring an annual review process of Pavement Management System road segments to determine data accuracy.

Implementation Status – Partially Implemented

The PvMS system is MDT's main data source for road condition information on the core systems. This system includes recommended road construction treatments to guide district decision making. Original audit work found PvMS drove both infrastructure project nomination and P3 distributions decisions. This makes the accuracy of PvMS data imperative to the effectiveness of MDT's operations. In our review of PvMS policy, there was not a requirement for an annual review of road segments to look for anomalies that may indicate inaccurate data. As part of follow-up work, we reviewed the newly created data collection quality management plan for PvMS. We found this has substantive processes to ensure the accuracy of the data collection vans, and checks for the completeness of the data. As part of our work, we also reviewed documentation outlining consultant work on road condition indices to make PvMS data more accurately reflect road conditions and degradation. These steps should help ensure greater accuracy of PvMS data going forward. The department still has further work to implement a formalized annual review of overall PvMS data to look for possible data inaccuracies.

Recommendation #3

We recommend the Department of Transportation pursue statutory change to align the statutory guidance for primary highway system funding distribution with current industry best practices.

Implementation Status – Implemented

Previously, state law described an outdated process for distributing funding to the primary highway system. The process was based on sufficiency ratings for the primary highway in each district. MDT implemented a new system for gathering roadway data which was not compatible with the distribution system in statute. The P3 distribution system adopted by MDT aligns their funding distribution process with best practices. SB 51 was introduced at the request of MDT to update statutory language in §60-3-205, MCA, to change the statutory language to align with the P3 distribution system. The legislation was passed in the 2019 Legislative Session and codified into law. Their processes for distribution of primary highway funding now aligns with the law.

Recommendation #4

We recommend the Department of Transportation develop and implement policy establishing:

- A. Criteria upon which project construction nomination decisions should be based,**
- B. How nomination criteria should be applied to potential projects, and**
- C. Required documented support of nomination decisions.**

Implementation Status – Implemented

MDT district staff have the responsibility to nominate future construction projects. Based on their knowledge of the district and available data, they are responsible for selecting the right treatment at the right time to achieve the most efficient use of limited resources and maximize the life of Montana roadways. The original audit found a lack of consistency across the five MDT districts in the criteria they consider when making infrastructure project nomination decisions. We also found a lack of standardized documentation to support nomination decisions. This led to confusion with stakeholders, such as the Transportation Commission, regarding why certain projects were selected over others.

In response to the recommendation for a more standardized process, MDT took significant steps to analyze what criteria should be considered. We reviewed policy and procedure documentation developed to standardize the nomination process. New policy and procedure included in-depth descriptions of policy and data that should be reviewed for each criteria category. Criteria categories were included on the nomination form which must be filled out for every capital construction project nomination. Capital construction projects are major projects such as reconstruction of a roadway. This form allows the district staff to rank each criteria category from low to extreme. This provides stakeholders with better information regarding which issues pushed the project to nomination. For pavement preservation projects, which are projects designed to extend the life of the existing roadway, there is a section on the nomination form to show the treatment type nominated by the district aligned with the recommendations in PvMS. This is confirmed by the department's Pavement Analysis Section with the concurrence documented on the form. We reviewed a completed nomination form from each district. They were consistently completed and offered sufficient information regarding why nomination decisions were made. District staff indicated this form clearly states why certain projects were nominated. This updated process represents full implementation of the recommendation.

Recommendation #5

We recommend the Department of Transportation develop and implement policy requiring a centralized review of project construction nomination decisions made at the district level to ensure consistency in the nomination of pavement preservation and capital construction projects.

Implementation Status – Implemented

The original audit found project nominations from the districts are sent to the Planning Division. However, there was no formalized review of those projects to ensure a consistent nomination process. MDT's implementation of Recommendation #4 provided a vehicle for the implementation of this recommendation. There is a section in the new nomination form where the Project Analysis Manager, located in the department's Planning Division, is required to sign off showing the nomination information in the form is in compliance with all MDT policies and procedures associated with the nomination of projects by the districts. MDT staff provided a spreadsheet outlining the different criteria the Planning Division reviews to determine if a project was supported for nomination, such as TranPlanMT and MDT's Comprehensive Highway Safety Plan. Our review of the criteria and interviews with MDT Planning staff determined this will ensure well supported projects are consistently nominated from the

districts. District staff believe it is good to have a second set of eyes review their nominations. They said the updated nomination process formalizes the working relationship between the Planning Division and the districts when nominating construction projects.

HB 473 Required Audit Follow-up and Additional Information

In addition to reporting on the status of our report's recommendations, HB 473 requested our follow-up provide updated information from the original audit, as well as unique information. The following information was requested in the legislation:

- MDT full-time equivalent (FTE) employees employed by MDT
 - MDT has a significant number of temporary employees for winter maintenance and summer construction. Due to this, we will provide two different counts of MDT FTE. On the first day of fiscal year 2019, MDT had 1,871 permanent FTE and 1,973 FTE, if you include seasonal and temporary FTE.
- Department costs per FTE
 - Total MDT expenditures in fiscal year 2018 were \$759,791,286. MDT total expenditures divided by the number of FTE (total authorized FTE) gives an expenditure of \$356,877 per FTE. This compares to \$361,846 per FTE in 2016 reported in the original audit report. Total MDT expenditures includes all department expenditures, not only personnel costs.
- Pay increases provided to employees in the previous year
 - We will report on discretionary pay changes. This represents the pay changes MDT is not statutorily obligated to provide their employees, and represents pay increases initiated by MDT management. Discretionary pay changes are given on top of the statutory increase of 1 percent given to all state employees in February 2018 and 2019. MDT had a total of 35 discretionary pay changes in calendar year 2018. This resulted in discretionary pay changes ranging from \$.68 to \$4.71 per hour, or an average increase of \$1.80.
- Department costs per road mile constructed
 - Road projects typically span over several years. To get the cost per road mile, we gathered MDT cost information for construction (\$200,132,970) and construction engineering (\$20,204,424) for projects completed in fiscal year 2018. We divided this by the total miles (579.8) of those projects. This resulted in a cost of \$379,892 per road mile constructed.
- Total cost of contracted labor
 - MDT uses contractors for a bulk of construction projects and some engineering work. Total cost for contractors in fiscal year 2018 was \$551,950,460. This includes all costs associated with construction contracts such as material, equipment, and labor.