A Report
to the
Montana
Legislature

Performance Audit

Fly the Big Sky: Division of Aeronautics and Yellowstone Airport Operations

Montana Department of Transportation

September 2022

Legislative Audit
Division

21P-05

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Performance Audits

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are conducted at the request of the Legislative Audit Committee, which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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LEGISLATIVE AUDIT DIVISION

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September 2022

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the activities of the Division of Aeronautics and potential scenarios for the future management of Yellowstone Airport. The division is within the Montana Department of Transportation.

This report provides the Legislature information about the internal controls surrounding the Division of Aeronautics' primary programs. It also explores scenarios for the management of Yellowstone Airport. This report includes recommendations for strengthening internal controls and using a standardized award selection tool for the Airport Grants and Loans Program. Recommendations also include requiring grant and loan recipients submit documentation supporting their award expenditures and developing a written policy for the Airport Property Lease Management Program. A written response from the Department of Transportation may be found at the end of the report. A written response was also solicited from the Board of Aeronautics. However, the board was unable to meet and provide such response within the timeline requested.

We wish to express our appreciation to the Department of Transportation personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Angus Maciver

Angus Maciver
Legislative Auditor

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Appointed and Administrative Officials

Montana Department of Transportation

Malcolm Long, Director

Julie Brown, Deputy Director

Matt Wagner, Chief Accountant, Accounting Controls Bureau, Administration Division

Tim Conway, Administrator, Aeronautics Division

Matt Lindberg, Chief, Safety & Education Bureau

Karen Speeg, Chief, Airports/Airways Bureau

Jeff Kadlec, Manager, Yellowstone Airport

Board of Aeronautics

Name	Represents	Term Expires January
Bill Lepper, Chair	Interstate Commercial Airline Operator	2025
Wade Cebulski, Vice Chair	Montana Pilots Association	2025
Robb Bergeson	Fixed Base Operator	2025
Dan Hargrove	Aviation Education	2023
Tim Robertson	Montana Association of Counties	2025
Gregory Smith	Association of Aerial Applicators	2025
Timothy Sheehy	Chamber of Commerce	2025
Tom Schoenleben	General Public	2023
Pam Chamberlin	Montana Airport Management Association	2025

MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT

Fly the Big Sky: Division of Aeronautics and Yellowstone Airport Operations

MONTANA DEPARTMENT OF TRANSPORTATION

A report to the Montana Legislature

BACKGROUND

The Division of Aeronautics supervises aeronautics in the state. It maintains 15 state-operated airports. The division also registers aircraft and pilots and provides administrative support for the Board of Aeronautics' Airport Grants and Loans Program. The division operates Yellowstone Airport (WYS), a seasonal commercial service airport in West Yellowstone.

Agency:
Montana Department of Transportation

Director:
Malcolm Long

Program:
Division of Aeronautics

Program FTE:
11.5

Program Revenues:
FY 2021: $3.2 million
[Excludes WYS]

Program Expenses:
FY 2021: $1.8 million
[Excludes WYS]

We identified several areas where the Division of Aeronautics (division) should strengthen its processes. The division does not require Airport Grant and Loan recipients submit documentation confirming funding was not over-awarded. Due to insufficient internal controls, $726,322 in Airport Grants and Loans were approved for six ineligible airports between fiscal years 2019 and 2022. Additionally, the Board of Aeronautics (board) does not consistently adhere to its award criteria nor consistently document the reason for such deviations. The board does not use a standardized scoring tool as the primary basis for approving funding for the Airport Grants and Loans Program.

We also identified several options for the state to no longer run Yellowstone Airport, some more feasible than others. The US Federal Aviation Administration (FAA) has final authority in approving any major changes in airport operations or ownership.

KEY FINDINGS:

The board does not use a standardized scoring tool as the primary basis for approving grants and loans. The board has not always adhered to its approval criteria; reasons for such deviations were not always recorded. Other states and the FAA use scoring systems as the primary guide for funding allocations, while still permitting discretion to ensure airport needs are met.

The division did not have sufficient internal controls for its management information system. Data entry omissions led to ineligible airports being approved for grant and loan funding and inaccurate reports being provided to the board. Additional controls have since been implemented and the division is in the process of acquiring a new system.

Developing a Standard Lease Policy could help further improve the Airport Property Lease Program. While the division has made recent improvements in this program, they do not have written policies or procedures. A Standard Lease Policy could help prevent current

(continued on back)

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insufficiencies attributed to staff turnover, unclear staff role responsibilities, and historical program practices.

Transferring Yellowstone Airport to a new public sponsor is the most feasible option if the state was to no longer run the airport. We identified several scenarios for the state to divest operational responsibility. Other scenarios include privatization or closing the airport. Key considerations for the state no longer running the airport include myriad federal obligations and impacts on stakeholders and the regional economy.

RECOMMENDATIONS:

In this report, we issued the following recommendations:
To the department: 4
To the legislature: 0

Recommendation #1 (page 10):
Procurement, contracting, and grants management
We recommend the Department of Transportation and the Board of Aeronautics develop Administrative Rules requiring the Board of Aeronautics use a scoring system as the primary basis for awarding Airport Grants and Loans Program funding and document all departures from the scoring system by the board when approving funding.

Department response: Conditionally Concur

Recommendation #2 (page 11):
Procurement, contracting, and grants management
We recommend the Department of Transportation require Airport Grants and Loans recipients submit documentation supporting expenditures at closeout, and ensure the funding was spent appropriately and that the recipient does not need to reimburse any part of the award.

Department response: Conditionally Concur

Recommendation #3 (page 14):
System and information management
We recommend the Department of Transportation implement sufficient internal controls to ensure the airport grants and loans information system data is complete and accurate.

Department response: Concur

Recommendation #4 (page 16):
Internal control
We recommend the Department of Transportation implement and maintain a written Standard Leasing Policy document to define and centralize Airport Lease Management Program policies, staff roles and their specific procedures, and program documentation.

Department response: Concur

Chapter I – Introduction and Background

Introduction

The Aeronautics Division (division) of the Montana Department of Transportation (MDT) supervises aeronautics in the state. It maintains state-operated airports, registers aircraft and pilots, and promotes aviation safety. The Legislative Audit Committee prioritized a performance audit of the division for fiscal year (FY) 2021 to examine the financial impacts of operating airports and whether relinquishing state management of Yellowstone Airport (WYS) would be feasible. The audit explored different scenarios under which the state could potentially no longer run the airport. Audit work also examined the internal controls for the division's primary programs.

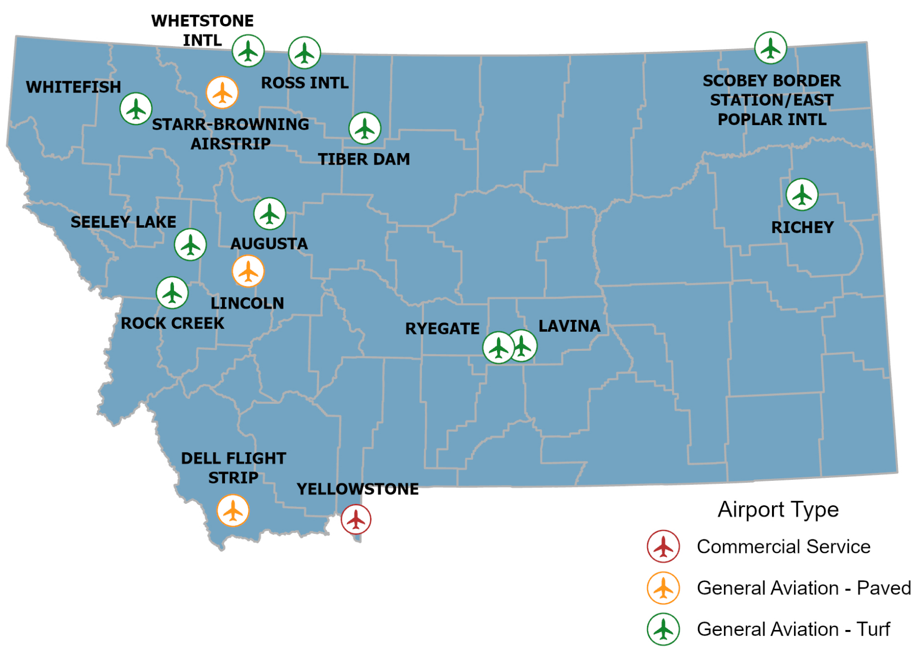
The Division of Aeronautics is the smallest MDT division, with two bureaus and 11.5 full-time equivalent staff (FTE). Nine FTE reside at the division's administrative headquarters in Helena, with the other 2.5 FTE at the Yellowstone Airport. Division revenues excluding Yellowstone Airport totaled $3.2 million in FY 2021.

Airports/Airways Bureau

There are approximately 300 airports in Montana, of which 128 are public use. The division's Airports/Airways Bureau (A/A) maintains and operates 15 of those public use airports. One is Yellowstone Airport and the other 14 are general aviation airports. Yellowstone Airport is a commercial service airport that receives scheduled flight service from commercial air carriers. General aviation airports do not have scheduled flights and vary in the type and number of services available. Three of the state-operated general aviation airports have paved runways and 11 have turf. The location of 15 airports is shown below.

Figure 1

Locations of the 15 State-Operated Airports



Source: Compiled by Legislative Audit Division staff using data from the United States Federal Aviation Administration Airport Data and Information Portal.

The state came to operate these airports through various means. Many were built or acquired in the late 1950s through 1960s by the Montana Aeronautics Commission (the predecessor to the Board of Aeronautics) to bolster the state's aviation system.

Further, the A/A Bureau oversees the Yellowstone Airport, which operates between May and October. In calendar year 2021, WYS had 13,149 passenger boardings. However, this data does not include non-commercial aircraft activity: general aviation and emergency medical flights, as well as military and wildland firefighting use. During peak operating season, the airport hosts up to five commercial flights a day. Routes connect to Salt Lake City and Denver via two commercial air carriers offering flights through a single common affiliate.

WYS is home to the United States (US) Forest Service West Yellowstone Interagency Fire Control Center, one of nine regional bases across the western US responsible for wildfire response. Airport lessees also include two rental car businesses, a restaurant, and a fixed-base operator that provides fueling and other services to airport users. An air ambulance service operates there, and the division maintains a campground for pilots to stay at in the summer. The town of West Yellowstone leases non-aeronautical airport land to use as its sewer lagoon. A utility company leases land for a natural gas distribution station to supply energy to the town.

Figure 2
Sign Welcoming Passengers to the Airport

Source: Photo taken by Legislative Audit Division staff.

The A/A also manages 32 airport property leases for its 14 general aviation airports and:

- Administers the Airport Grants and Loans Program.
- Updates and distributes an airport directory and aeronautical chart for pilots.
- Inspects the state's 119 non-commercial service public use airports on a three-year rotation and submits the inspection records to the US Federal Aviation Administration (FAA) to publish for public use.

Safety & Education Bureau

The division's Safety & Education Bureau manages the state's Aircraft and Pilot Registration Program, through which approximately 2,000 pilots and 5,300 aircraft are registered annually. In FY 2021, the registrations generated approximately $940,000 in revenue for the division's operating fund. The bureau also administers aviation safety and education programs and coordinates the state's air search and rescue (SAR) program. The state responds to around 30 SAR calls annually.

The Board of Aeronautics

The division provides administrative support to the Board of Aeronautics (board), a quasi-judicial, nine-member board. Administratively attached to the MDT Director's Office, the board is statutorily responsible for reviewing and approving awards for the Airport Grants & Loan Program. The program's purpose is to help publicly owned airports pay for airport improvement and development projects. The board approves grants and loan awards annually at a public meeting.

Audit Objectives and Scope

We developed two objectives for the audit:

1. Has the Aeronautics Division and Board of Aeronautics established internal controls to ensure the objectives of their major activities, including the Airport Grants and Loans Program, are met in an effective and strategic way?
2. Are there feasible options for the State of Montana to no longer operate Yellowstone Airport?

Audit Scope

The audit's first objective examined the internal control structures for four of the division's major programs: The Airport Grants and Loans Program, the Airport Lease Management Program, the State-Operated Airport Maintenance Program, and the Aircraft and Pilot Registration Program. Airport Grants and Loan Program data and meeting minutes for FY 2017 through 2022 were analyzed to identify any award approval trends. This time span was selected to allow for five full award cycles.

The second objective focuses on options for the state no longer running Yellowstone Airport. We isolated and examined the airport's operating budget (e.g., revenues and expenditures specific to the operations of the airport) for FY 2017 through 2021. We used that time frame to capture the most recent five years of historical activity; this time frame also incorporated extraordinary federal funding resulting from US Congress' response to the COVID-19 pandemic.

Methodologies

During audit fieldwork, we completed the following methodologies:

- Reviewed applicable state and federal laws, rules, policies, orders, and procedures related to the division's programs and Yellowstone Airport.
- Identified and analyzed internal controls for the division's Airport Grants and Loans Program, Aircraft and Pilot Registration Program, State-Operated Airport Maintenance Program, and the Airport Lease Management Program.
- Interviewed division staff to understand their roles and responsibilities.
- Completed a hard-copy file review of the division's documentation for a sample of airport grants and loan awards to determine consistency and compliance.
- Analyzed Airport Grants and Loans Program award data from FY 2017 to 2022 to understand and identify any award trends over time.
- Reviewed Board of Aeronautics award meeting minutes for FY 2017 to 2022 to determine level of consistency in awarding based on the meeting-specific award criteria the board sets for itself.
- Surveyed Airport Grant and Loan Program applicants who participated in the program between FY 2017 to 2021.
- Reviewed supporting expenditures documentation submitted by a sample of 19 airports to understand what kind of information is retained by Airport Grant and Loan Program recipients per administrative rules.

- Interviewed several former or current Board of Aeronautics members, FAA representatives, and other program and Yellowstone Airport stakeholders.
- Interviewed other states in the region to understand how they administer and award state grants and/or loans.
- Identified and analyzed the Yellowstone Airport's operating budget for FY 2017-2021 to understand recent financial trends at the airport.
- Interviewed MDT accounting staff and division staff to understand how federal funding and the upcoming terminal project impacts the airport's financial status.
- Toured the Yellowstone Airport and interviewed the airport manager to understand daily operations.
- Identified potential scenarios for the state no longer running WYS by reviewing federal and state criteria and interviewing FAA representatives.
- Analyzed additional information, including the airport's grants history and future Capital Improvement Plan, to estimate potential financial impacts of some scenarios for the state no longer running the airport.

Chapter II – Airport Grants and Loans Program Findings

Introduction

We examined the internal controls of four Division of Aeronautics (division) programs, including the Airport Grants and Loans Program (AGLP). The division does not require award recipients to submit supporting documentation when reporting their final award project costs. We found the Board of Aeronautics' (board) award approval process could be strengthened by using a standardized scoring tool as the primary basis for its decisions.

Airport Grants and Loans Program Award Approval Processes

The AGLP approves grants and loans to local governments, municipal airport authorities, or state agencies in Montana for airport development projects. Per statute, awards may not be issued until the board reviews and approves them. Both grants and loans are approved at the same time as part of one decision-making process at an annual public board meeting. All AGLP awards consist of state funding; the board does not review or approve any form of federal funding.

Division staff provide administrative support for the AGLP. They provide award application information to the board, including a numerical priority score for each project and a proposed award amount. The board receives this information ahead of the award approval meeting and, at the meeting, allocates and approves all funding. The board typically establishes some ad hoc decision-making criteria at the outset of the approval meeting, but the board is not required to use a standardized scoring tool as the primary basis for its award approval. The board may approve an airport receive a grant award, loan award, or both for any of the projects they applied for. Once the board has approved all awards, the division works with airports to confirm they will accept the funding and ensure they submit the paperwork required for award disbursement.

Grants and loans are allocated from separate funds. The loan fund is a revolving fund and the grant fund consists of the state's aviation fuel tax revenues. Neither award fund receives federal revenues. Table 1 below shows the total funding approved by the board between fiscal years (FY) 2017 and 2023.

Table 1
Total Funding Approved by the Board of Aeronautics by Fiscal Year

	2017	2018	2019	2020	2021	2022	2023
Grants	$261,441	$232,506	$275,529	$270,000	$3,300,000	$1,405,397	$3,000,000
Loans	401,459	371,162	300,000	367,101	350,000	599,974	350,000
Total	**$662,900**	**$603,668**	**$575,529**	**$ 637,101**	**$3,650,000**	**$2,005,371**	**$3,350,000**

Source: Compiled by Legislative Audit Division staff using department data.

The increase in grant funding for FY 2021 awards resulted from the 2019 Montana Legislature increasing the aviation fuel tax from four to five cents per gallon and allocating four and a half cents from each gallon to the grants account. This legislative change led to the board having significantly more grant funding available to award.

Program Financial Analysis Trends

We examined AGLP data between FY 2017 and 2022. Seventy-two airports applied for board awards across this time frame. The third column of Table 2 shows how many applicants were approved for grant and/or loan funds by the board each year.

Table 2
At Least Half of AGLP Applicants FY 2017-2022 Were Approved for Funds

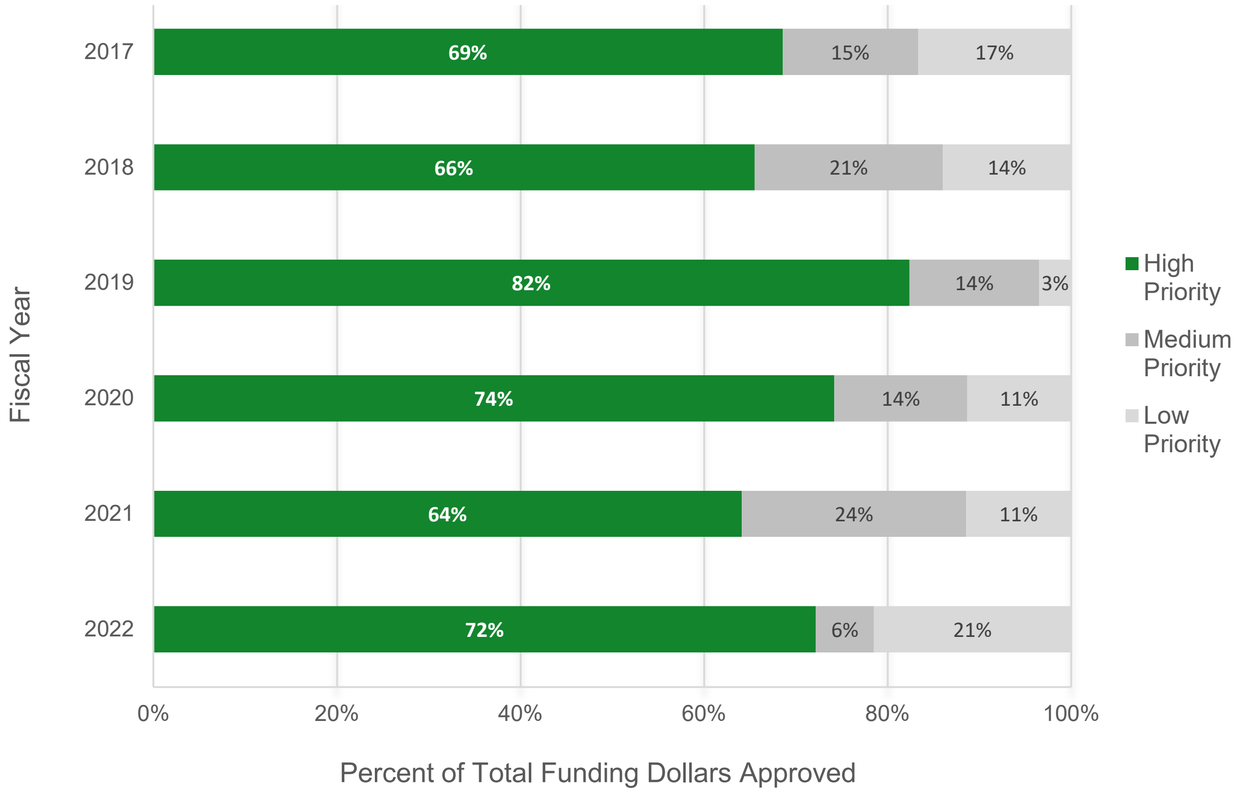
Fiscal Year	Total Applicants	Total Applicants Approved	Percent of Applicants Approved	Total Approved
2017	30	22	73%	$ 662,900
2018	34	19	56%	$ 603,668
2019	12	9	75%	$ 575,529
2020	27	21	78%	$ 637,101
2021	35	34	97%	$ 3,650,000
2022	46	23	50%	$ 2,005,371

Source: Compiled by Legislative Audit Division staff using department data.

Award approval trends vary for many reasons, including the distribution of a year's project costs or the types of projects submitted for funding. Half or more program applicants were awarded funding each year of our analysis. However, the percentage of total applicants awarded varied. For example, all but one airport in FY 2021 (97 percent) received an award. In FY 2022, exactly half of the applicants were allocated funding.

As part of compiling application information for the board, division staff score all projects based on a prioritization formula developed by the US Federal Aviation Administration (FAA) called the Priority Rating score. The division then use the scores to group projects into high, medium, and low priority categories. We found that overall, the board approved most funding each year to high priority projects. Figure 3 (see page 7) shows the percentage of total funding allocated across each priority group for each fiscal year.

Figure 3
The Majority of Award Funding Was Approved for High Priority Projects



Source: Compiled by the Legislative Audit Division from department data.

While most of each year's total award money is given to high-priority projects, the board still approves funds for projects classified as medium or low priority. These proportions may be dependent on the number of projects that fall in each priority category in a given year. While most awards funding goes to high priority projects, we observed that the board often funds medium or low priority projects without exhausting high priority projects. The board does not use these categories, nor the Priority Rating score provided by the division, as the primary basis for award deliberations, nor are they required to. Aeronautics staff noted the same. The justification for awards was not consistently documented in meeting minutes.

Airport Grant and Loan Program Participants Generally Satisfied

We surveyed all AGLP program participants for FY 2017 to 2022 to learn their perceptions of the program, the board, and division staff. We received 44 responses for a 36 percent response rate. Most respondents reported positive perceptions of the board, including overall satisfaction with the board's award process. While 10 percent of respondents somewhat disagreed that the board members had sufficient understanding of state aviation to make informed award decisions, 74 percent agreed. No respondent disagreed that the board's award decisions improved the safety of Montana's aviation system.

Board Does Not Always Follow Its Own Award Criteria nor Document Why

At the outset of its annual award meeting, the board typically establishes general guidelines for how it may award funding. These criteria can vary by year and are established at the board meeting. For example, the board may prioritize safety projects but not planning or design projects, or fund certain project types at certain percentages. In examining the board's award meeting minutes for FY 2017 through 2022, we found the board did not always adhere to the annual internal criteria it set for itself. Further, rationales for such deviations were not always recorded. Some examples include:

- For FY 2017, two projects of a same type were funded, while a third was not funded on the basis it was not a safety or maintenance-based project, the criteria the board set for itself that year. The application project descriptions for each were examined and none of the three met the board's established criteria.
- For FY 2018, of five projects of the same type, four were awarded funding by the board on the basis the project type met the board's safety criteria. However, the last project of the same type was not awarded funding on the basis it did not meet safety criteria, even though the project appeared identical to the others.
- For FY 2022, the board voted to fund a design project. Based on that year's award criteria, the board indicated it was not going to fund any planning or design projects and several other projects were not funded on the basis they were design projects.

While there may have been justifications for why the board deviated from its own decision-making guidance, we could not determine why it did not follow its own criteria in some circumstances.

Lack of Consistency Leads to Inability to Demonstrate Strategic Use of Taxpayer Funds

While most projects awarded funding are high priority and participants are generally satisfied with the board's processes, other work shows that the board is not always consistent in which types of projects for which it approves funding. Meeting minutes do not consistently demonstrate the rationale for such approval. While the justification for deviations from staff recommendations or the board's stated priorities may be relevant or warranted, there is not an easily accessible way of determining this reasoning, leading to a lack of funding transparency.

While the board may approve grants and loans as it sees fit, undocumented inconsistences or deviations from its criteria jeopardize the board's ability to demonstrate its award allocations are strategic, in the best interest of the state's aviation system, and the best use of taxpayer funding.

Board's Award Approval Approach Does Not Use a Standardized Selection Tool as Primary Basis

The board is not required to use a standardized scoring tool when awarding funding. Board members have traditionally held that a scoring system runs counter to their needs, as it negates the "human element" aspect of decision making. Current board members have expressed concern about using a scoring tool as the baseline for annual award approvals.

Neither statute nor administrative rules require the board to use a scoring method as part of awarding grants or loans. Statute establishes that any airport grant or loan may be issued only after review and approval by the board. However, it does not require the board utilize any formalized or consistent award approach.

Nonetheless, §67-1-307 and §67-1-309(3), MCA, require the board to establish AGLP awarding procedures. Administrative rules establish airport-related projects will be given highest priority. However, the rules do not describe any decision-making procedures or structures to guide the approval process.

Other States Use Scoring Systems to Guide Award Decision Making

Other states and the FAA use application scoring systems as the primary basis for awarding airport development funding. These systems ensure consistent allocation decisions while permitting discretion to meet aviation system needs.

We interviewed three states in the region to learn how their aeronautics boards or commissions award state airport grants or loans. Idaho, Wyoming, and North Dakota have at least one oversight board or commission with final approval authority. We found these states use a numerical scoring system as the primary basis for developing the funding allocation plan proposal provided by staff to the boards to approve. Some have developed their own scoring systems tailored to their state's needs or strategic priorities, such as prioritizing federally funded projects.

After establishing an initial award allocation plan base using their standardized systems, staff and board members in other states utilize discretion to modify and document award allocation plans to account for needs or factors. This helps ensure that smaller community airports still receive support even if they score low on the baseline rating system. However, other states observed that their boards typically do not make significant adjustments to the plans division staff provide using the scoring tool and professional judgement for discretion.

The FAA also uses a scoring tool called the National Priority System to allocate its airport development grants. The division uses this system to provide the board a score for each project for which airports have applied for funding. This system assigns a numerical National Priority Rating (NPR) to each project and considers several factors to determine how the project aligns with FAA goals and objectives. However, the scoring effort overall considers both quantitative and qualitative factors. The qualitative factors include internal project flags the FAA uses to factor in specific circumstances that warrant special priority. Written justifications explaining the need for additional priority may also be considered. These qualitative factors do not impact the NPR but are considered in the final funding decisions.

Recommendation #1

We recommend the Department of Transportation and the Board of Aeronautics:

A. *Develop Administrative Rules requiring the Board of Aeronautics use a scoring system as the primary basis for awarding Airport Grants and Loans Program funding, and*

B. *Document all departures from the scoring system by the board when approving funding.*

Division Does Not Require Expenditures Documentation at Project Closeout

Every AGLP award recipient must submit a closeout report to the division within 30 days of the project ending or within one year following fund distribution, whichever occurs earliest. Any award recipient out of compliance with this requirement is not eligible for future funding until their closeout is submitted, per administrative rules. If the recipient's final project costs come in more than $500 below the total award amount approved for that project, they must reimburse the balance. Recipients are not required to provide documentation supporting project expenditures when reporting the actual project costs at closeout.

Without supporting documentation, the division cannot confirm with certainty that the award recipient did not receive an amount exceeding the final project costs and that funds were spent solely on the projects the board intended. Thus, the division may miss recouping over-awarded or inappropriately spent funds that could otherwise be awarded as future airport projects. The division also has limited ability to detect fraud or abuse of taxpayer funding.

As a result of our work, two airports that owed funding back to the board came to the division's attention. In all, the two airports owed $16,440 in over-awarded board funding. The division has since worked with both airports to recover the balances owed.

Best Practices Include Confirming Award Expenditures Are Appropriate

Grant program best practices include requiring documentation verifying award expenditures be provided before disbursing award funds and/or as part of the closeout process. This helps grant-making entities ensure funding is not over-awarded and to better prevent fraud or abuse of public monies. The three states we interviewed use a reimbursement model and review expenditure documentation before releasing funds. This ensures the grant funding is used for the project in question and lowers the risk of improper use, over-awarding of funds, or the need to use administrative time seeking reimbursement.

Further, the US Government requires federal grant award recipients submit financial information to be reimbursed during the project and upon closeout. This is so the awarding agency can determine whether the awardee completed all work and expended funds appropriately. The closeout review process is also intended to detect potential fraud or abuse of federal resources. Additionally, recipients must refund any unobligated cash paid in advance but not used for the project.

Division Believes Current Closeout Practices Are Sufficient

Administrative rules require AGLP award recipients to retain all records of transactions of award monies for three years after project completion. However, Aeronautics staff do not believe it is necessary to require award recipients submit these records for review. Their reasons include:

- The engineers that submit the final closeout reports on behalf of airport sponsors must be truthful in their summary of final costs as failing to do so may jeopardize their licensure/certification.
- They believe the staff review of pre-disbursement paperwork (e.g., confirmation of FAA grant local share costs or notice to proceed costs are not less than what the board awarded) and self-reported closeout report information are sufficient for the division's program administration needs.
- MDT Audit Services audits approximately two to four recent award recipients with completed projects each year. Division staff believe this approach is sufficient to detect or deter potential cases of fraud.

Division staff believe implementing a reimbursement model as other states use may not be realistic due to their small staff size. Given both the division staff person responsible for AGLP administration and the division's MDT accounting liaison both have additional job responsibilities, this assertion is reasonable. Instead, requiring documentation of award expenditures at closeout would allow the division to confirm final project costs and ensure compliance with administrative rules in lieu of changing its current disbursement processes. Requiring such documentation also mirrors other accounting practices already in effect. However, division staff also expressed concerns about this approach due to their small staff size and the additional time it may require of the award recipient.

RECOMMENDATION #2

We recommend the Department of Transportation:

A. *Require Airport Grants and Loans Program award recipients submit documentation supporting funding expenditures and actual project costs as part of the award closeout process.*

B. *Review the documentation to ensure the funding was spent appropriately and that the recipient does not need to reimburse any part of the award.*

Chapter III – Opportunities to Strengthen the Division Information System and Other Programs

Introduction

We also examined the division's internal controls surrounding three additional programs: The Airport Property Lease Program, the State-Operated Airport Maintenance Program, and the Aircraft and Pilot Registration program. We found that, while recent program updates had been made to the Airport Property Lease Program, not all agreements had current leases on file, nor were there written procedures for the program. We also found a lack of sufficient internal controls surrounding the division's electronic information system led to incomplete and inaccurate information being provided to the Board of Aeronautics. As a result, the board approved Airport Grants and Loans Program (AGLP) awards for ineligible recipients.

The division could increase efficiencies in recording equipment location information for the Airport Maintenance Program. However, we did not find this deficiency to be of sufficient magnitude to impact this program's operations. In examining the Aircraft and Pilot Registration program, we found external factors limit the division's ability to assess timely initial aircraft registration fees in all cases. However, these factors do not prevent the program from meeting its objectives.

Management Information System Internal Control Concerns

The division uses an electronic management information system, AeroSuite, to manage its primary program operations. However, staff believe the system no longer meets the division's needs, including its design is not aligned with current administrative processes. We found the cumbersome nature of the system and inadequate system controls contributed to the improper awarding of airport grants and loans and the provision of inaccurate management information to the board.

Insufficient Internal Controls Led to Ineligible Airports Receiving Funding and Inaccurate Management Information

We discovered data entry inconsistencies within the AGLP module. Data were not input into certain fields for 12 airports receiving funding between fiscal year (FY) 2017 and 2020. Because data were missing, these airports were omitted from reports staff use to monitor project closeout compliance. Per administrative rules, airports out of compliance with closeout requirements are not eligible for subsequent AGLP awards.

As a result of the missing data, internal controls to prevent noncompliant airports from accessing the AGLP application were not effective. Because these airports could access the application and were not included in noncompliance reports, they were listed for award consideration by the board. As a result, $726,322 in grants and loans were approved for six noncompliant airports between FY 2019 and 2022. A total of $247,330 of this funding was disbursed as several of the airports received federal pandemic relief funding that paid for their projects, instead.

We also found that the board was provided with inaccurate management information because of the data omissions. An award history report generated by AeroSuite incorporates fields that were missing data. This led to the report for the FY 2022 award cycle underreporting to the board $351,601 awarded across 12 airports.

System Is Outdated and Was Not Designed With Growth in Mind

AeroSuite has reached its technological end of life, is cumbersome to use, and is no longer compatible with current program processes. This, in part, led to staff not entering data into duplicative fields consistently. While duplicative, compliance-based internal controls and management information reports depend upon these fields. Montana Department of Transportation (MDT) information systems staff reported that the system was not designed with future growth or alternative workflows in mind. This has limited its capacity for accommodating the division's current business processes.

Sufficient Internal Controls Necessary to Ensure Accuracy and Efficiency

State policy requires agencies to implement sufficient internal controls to ensure reliable and accurate management information system data. Such a control structure must provide for the identification, capture, and exchange of information both within the agency and with external parties. Concerning electronic management information systems, input controls should be implemented to ensure that data received have been properly authorized and formatted. These control activities include data entry validation procedures such as checking digits. Such internal controls help ensure that the data entered is accurate and the systems are working as intended.

As a result of our work, the division implemented an additional control that reminds the staff on exiting the data entry page to ensure that field's data was entered, as appropriate. Further, the division is in the process of acquiring a new system to replace AeroSuite. As audit work concluded, a request for proposal (RFP) for a new system was posted. While staff did not report a specific budget at the time, the RFP information estimated the 10-year projected costs for the system to be $1.45 million. Regardless of the system the division is using, sufficient internal controls are essential to ensure accurate management information data and compliance activities.

Recommendation #3

We recommend the Department of Transportation implement sufficient internal controls to ensure the Airport Grants and Loans Program information system data is complete and accurate.

Airport Property Lease Program Updates Made but Some Documentation Missing

Aeronautics headquarters staff manages 32 leases for private and commercial parties to access or use airport property at general aviation state-operated airports (all state-operated airports other than Yellowstone Airport). In FY 2021, the division collected approximately $19,000 in revenues from the program. The leases were spread across four airports, with the majority located at Seeley Lake Airport and Lincoln Airport. These types of agreements include leasing property upon which the lessee has built an aircraft hangar or "through the fence" arrangements where licensees may access airport property from their adjacent private property.

The division has worked to increase efficiencies and improve Airport Lease Program's consistency, including aligning lease cycles and agreement terms for consistency. In our review, however, we observed two instances in which no current lease documentation was available. At the time of audit work, a new lease was being executed in one case, and in the other case, staff reported the former lessee was no longer accessing airport property. A lack of complete and current leasing documentation can expose the state to risk, including liability for damages from the other party.

MDT staff beyond the Aeronautics Division have roles in the Airport Lease Management Program. While division staff manage the lease agreements, accounting staff is responsible for issuing lessee invoices, processing lease payments, and ensuring payments for leases are received. As such, the lease management staff were not aware of whether or how to ensure late fees were paid by lessees in the cases they were required in the agreements. At the time of this analysis, accounting functions were taken care of by accounting staff at MDT headquarters. Further, MDT legal staff review and approve any lease agreement changes.

Best Practices Involve Written Standard Lease Policy

Division staff attributed inconsistent document maintenance to historical staff turnover in both program and accounting positions. While multiple Aeronautics staff have acknowledged they are in the process of developing "succession planning" documents that have similar intent, none are finalized. There has been further turnover and shifting of staff to different roles within the division. Further, there is currently no written documentation defining lease policies and procedures, as well as staff roles and responsibilities for all staff involved in the program processes.

Best practices in airport property leasing at small airports include developing a Standard Leasing Policy document that centralizes practices, procedures, and other leasing information. This, in turn, helps ensure transparency in the leasing process and supports the implementation of consistent internal controls surrounding the program. We reviewed several examples of airport Standard Leasing Policies from airports in other states. Most had similar components, including how lease rates are established, typical lease term lengths, lease development processes, procedures, and related guidelines executed by program staff.

State policy requires agencies to establish internal controls. It emphasizes the need to develop policies, procedures, techniques, and mechanisms to achieve an entity's objectives. This includes creating and maintaining appropriate documentation. Further, well-designed internal controls outline the specific authority and responsibility of employees in carrying out their day-to-day activities.

Recommendation #4

We recommend the Department of Transportation implement and maintain a written Standard Leasing Policy document to define and centralize Airport Lease Management Program policies, staff roles and their specific procedures, and program documentation.

Chapter IV - Scenarios for the State to No Longer Operate Yellowstone Airport

Introduction

We explored whether there are feasible options for the State of Montana to no longer operate Yellowstone Airport (WYS). To do so, we reviewed federal and state statute, rules, policies, and orders, and interviewed relevant stakeholders. This work was not intended to provide recommendations regarding whether the state should continue operating the airport. Rather, it outlines information on alternative ownership options in response to ongoing legislative interest.

In addition to maintaining the status quo, we found at least one feasible scenario for no longer running Yellowstone Airport: transferring airport sponsorship to another public entity. However, overall scenario feasibility depends on the willingness of external parties to take on responsibility for operating the airport.

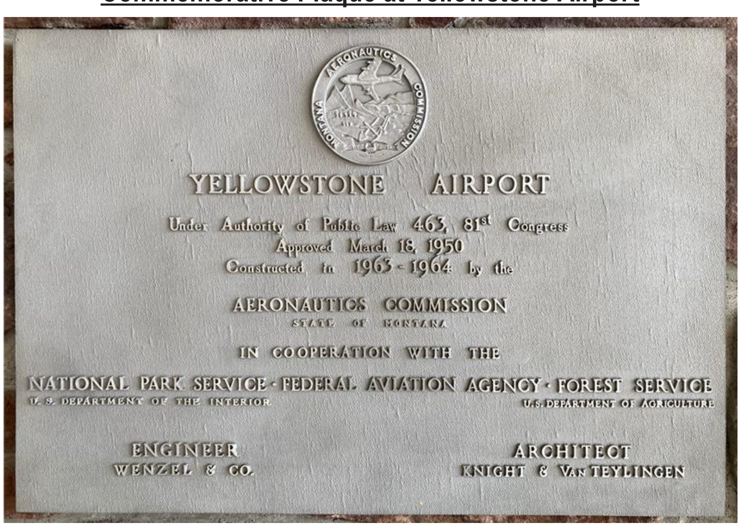
Located two miles from the town of West Yellowstone, WYS is the only commercial service airport operated by the Division of Aeronautics. The State of Montana is considered the airport sponsor. An airport sponsor is the entity that has control over an airport's operations and finances. While this is typically the owner of the airport, some sponsorship arrangements include a long-term lease in which sponsorship is transferred from the owner to a different operator. State-owned commercial service airports are fairly uncommon in the US.

A Brief Ownership History of Yellowstone Airport

In the early 1950s, efforts by Montana United States (US) Senator Mike Mansfield and the US Department of the Interior to establish a new airport to serve Yellowstone National Park and the surrounding region began. The Montana Aeronautics Commission (MAC; since replaced with the Board of Aeronautics) agreed to accept airport sponsorship. Established in 1945, MAC had the authority to acquire or construct airports. The new airport was constructed with federal funding assistance and opened in June 1965. The state was required to operate the airport for the next 20 years due to a contract signed by MAC with the federal government.

Figure 4

Commemorative Plaque at Yellowstone Airport



Source: Photo taken by Legislative Audit Division staff.

In 1987, the Montana Legislature directed the Department of Commerce (to which MAC was administratively attached) to transfer airport ownership to the town of West Yellowstone or another public entity. Failure required the department submit a plan to the subsequent legislature to close the airport. Both the town and Gallatin County declined to accept sponsorship. However, the 1989 Montana Legislature struck the statutory closure language on the grounds the airport had become self-sufficient from increasing wildfire traffic revenues. The state has since maintained sponsorship and there have been no further formal efforts to transfer airport sponsorship.

The Airport Typically Operates at a Loss but its Fund Net Position Positive

The Yellowstone Airport uses an enterprise fund structure. This type of fund is used to account for operations that provide services or goods to the public on a user-charge basis for operations that essentially act as a business. Historically, concerns regarding the airport have been related to its financial solvency and self-sufficiency.

Any prospective new airport owner, or sponsor, would likely base their decision to assume WYS sponsorship in part on its financial history and status. As such, we examined the airport's financial activity between fiscal year (FY) 2017 and 2022. Table 3 captures the net position of the airport's enterprise fund, including outlining operating revenues and expenses. Examples of such revenues and expenses include charges for services (e.g., lease revenue), personal services, and costs for repairs and maintenance.

For FY 2020 and 2021, the airport's financial statements include data from a federal grant fund. The division received a $3.4 million Operating and Maintenance (O&M) grant as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) grant funding distributed in FY 2020 by the US Federal Aviation Administration (FAA). CARES Act grants are funded at 100 percent federal share, meaning the state does not need to contribute matching funding. Nearly all airport operating expenditures in FY 2021, and some FY 2020 expenditures, were charged to the O&M grant fund rather than the airport's enterprise fund. As such, part of the airport's financial activities those years were not directly reflected in the enterprise fund. The O&M fund was incorporated in the Table 3 (see page 19) amounts to capture a complete picture of the airport's financial activities, including operating expenses.

Table 3

While Its Net Position Is Positive, the Airport Usually Operates at a Loss

	2017	2018	2019	2020	2021
Net Position - July 1 - as adjusted	$ 3,713,000	$ 6,564,000	$ 9,639,000	$ 9,710,000	$10,420,000
Total Operating Revenues	408,000	511,000	491,000	631,000	874,000
Total Operating Expenses	483,000	565,000	579,000	603,000	958,000
Operating Income (Loss)	(75,000)	(54,000)	(88,000)	28,000	(84,000)
Total Nonoperating Revenues (Expenses)	(26,000)	3,000	-	-	-
Capital Contributions*	2,633,000	2,808,000	132,000	226,000	72,000
Transfers In	286,000	318,000	25,000	456,000	14,000
Net Position - June 30	$6,531,000	$9,639,000	$ 9,708,000	$10,420,000	$10,422,000

Source: Compiled by the Legislative Audit Division using Annual Comprehensive Financial Reports (Enterprise Fund Activity) and State Accounting, Budgeting, and Human Resources System data (CARES Act Activity).

*For FY 2020 ($9,000) and 2021 ($6,000), some capital contributions are associated with capital assets funded by the CARES Act grant, and reported as operating expenses.

The size of the airport's overall financial net position is generally due to its large capital assets. However, in focusing on the airport's annual operations, its revenues are insufficient to cover operating expenses most years. State and federal special revenue resources, such as capital contributions and transfers in (e.g., the state match for federal grants), allow the airport to cover its overall costs and maintain a positive net position year over year. As such, a new sponsor would need to take into consideration the availability of its own capital contributions or external funding sources to compensate for the fund's potential continued operating loss. If federal and state support remain available, the airport's enterprise fund will likely retain a net positive position moving forward. An upcoming capital project, as discussed in the next report section, will also impact the airport's future financial outlook.

New Airport Terminal May Impact Future Financial Outlook

The division is in the process of planning and building a new terminal building for Yellowstone Airport. The projected cost for the terminal is approximately $41.5 million. The division intends to use a $14.4 million CARES Act Development grant toward the project. The division is identifying additional funding sources, including remaining CARES Act O&M grant funding, federal funds, and airport enterprise fund monies, including revenues accumulated through charging expenses to the CARES Act O&M fund.

Several unknown factors stemming from the new airport terminal's completion will influence the airport's future finances. These include potential increases in operating revenue opportunities from higher lease fees. Savings in operating expenses may also be realized through the decreased utility and building maintenance costs that come with a new energy-efficient building. However, the division has not estimated such projections, partly because the final terminal layout is not finalized. As such, specifically how the new terminal will affect the airport's financial status is currently unknown.

Key Considerations Impacting Scenario Feasibility

Many considerations beyond the airport's financial outlook affect the feasibility of the state no longer running Yellowstone Airport. Some influence whether a scenario is permitted. In contrast, others are important potential impacts resulting from changes in the airport's ownership or operating status. These considerations fall into two categories: 1) Laws and regulations, and 2) External considerations.

Laws and Regulations Impacting Feasibility Scenarios

The state must navigate a complex web of federal laws, regulations, obligations, and restrictions to ensure compliance with grant assurances, certifications, and other restrictions imposed by the federal government. These requirements come from the airport's deed, obligations accompanying federal airport grants, certification required to operate commercial air services, and the corresponding final decision-making authority granted to the FAA. These are discussed in further detail below.

Yellowstone Airport Deed: The WYS deed carries several restrictions that must be honored forever and by any subsequent airport owner. The state must use the property for public-use airport purposes. The deed also contains a reversion clause: If the airport ceases to be used for airport purposes for six months, the property interest reverts back to the federal government. While the FAA has authority to release deed restrictions, agency guidance indicates reversion clauses are rarely, if ever, released.

FAA Grants: The FAA Airport Improvement Program (AIP) provides grants to public agencies, and sometimes private owners, for the planning and development of public use airports in the National Plan of Integrated Airport Systems. These grants typically carry 39 grant assurances that the airport sponsor must fulfill. Most grant assurances last a minimum of 20 years, though some can last up to 40 years or for as long as the airport exists. Except in certain cases, grant obligations transfer along with sponsorship. Such obligations require WYS to remain a public use airport and that airport revenue be used only for airport purposes. Further, the airport may not restrict which type of users access or provide services at the airport. While the FAA strives for mutually agreeable solutions, the agency does have enforcement authority over grant assurance violations. Enforcement actions can include judicial injunctions and, in some cases, assessing civil penalties.

Airport Operating Certificate (AOC): An Airport Operating Certificate is required for an airport to receive scheduled air service of aircraft with 10 or more seats. Certifications do not transfer with sponsorship. AOC requirements are intensive to ensure airport safety and any certification violations, intentional or otherwise, can carry heavy civil penalties. Also, failure for a subsequent WYS airport operator to hold an AOC may violate grant assurances in that commercial air carriers could no longer access the airport with aircraft that have more than nine seats.

FAA Decision-Making Prerogative: Implementation of the scenarios in this chapter is subject to FAA approval. The FAA makes determinations on sponsorship changes or closures based on the extent to which the resulting action would lead to a net benefit for the aviation system. The agency does not consider the requesting sponsor's desires or intentions. In the case of full release of obligations for permanently closing an airport, the sponsor must demonstrate the facility is no longer reasonably maintainable. The desire to simply no longer remain a sponsor is not an appropriate reason for closing an airport.

External Considerations Impacting Feasibility Scenarios

In addition to laws and regulations and the airport's financial landscape, there are several external factors that must be considered when deciding whether or how to change an airport's status or sponsorship.

Economic Impact: The town of West Yellowstone is home to the west entrance to Yellowstone National Park, the park's busiest entrance. West Yellowstone's economy relies heavily on tourism and Yellowstone Airport provides an additional tourist access point for the region. A study commissioned by the Montana Department of Transportation found in 2015, out-of-state visitors arriving via commercial air service to Yellowstone Airport spent around $1000 per trip, leading to approximately $6.8 million in direct spending output in the state. The study also estimated such spending by these visitors contributed to 87 jobs and $1.9 million in labor income. Further, several stakeholders observed that WYS offers an access point for private users who recreate or live in the region.

Stakeholder Impact: Changes in the airport's status may affect its major stakeholders. For example, if the airport were to close, the town of West Yellowstone would be required to remove its sewer lagoon from the property and return the land being leased to its original state. This would also be required of the natural gas utility leasing land to store and distribute natural gas to customers in the town. Changes in status could also impact the region if the air ambulance service housed at the airport was displaced or if the smokejumper base could no longer use the airport for wildfire fighting.

Trends in Acquiring New Sponsors: FAA representatives told us they have worked with airport sponsors desiring to transfer sponsorship to another entity but have not found success. The overall trend is that it is difficult to find new sponsors to assume airport operating responsibilities, particularly because most public use airports do not generate sufficient profits for private entities to be willing to come to the table. Further, many public entities that benefit from essentially "free" airport infrastructure (e.g. a town adjacent to a state-run airport) often do not have sufficient motivation, experience, or resources to take on sponsorship themselves.

Scenarios for the State Divesting Airport Sponsorship

We identified several scenarios for the state to no longer run Yellowstone Airport. Such scenarios include transferring sponsorship to a public entity, privatizing, and permanently closing, each of which are explored in more detail in separate sections below. Section 67-2-302(1)(c), MCA, prohibits the state from selling airports to private entities or to a public entity for non-aeronautical purposes.

Maintaining the status quo with the state as sponsor is the most straightforward ownership scenario. We also examined a partial privatization scenario via a management lease arrangement in which the state would retain sponsorship while paying a private entity to manage operations. The FAA must approve such an agreement and typically only does so if it can determine it would lead to a net financial benefit for the sponsor. Given the unknown status of the airport's future, this option may not be a feasible scenario in the near future.

Transferring Sponsorship to a Public Entity

Transferring sponsorship to a different public entity is likely the most feasible option for the state no longer running WYS. This is because public entities are most likely to be considered as "willing and eligible" by the FAA to possess both legal authority and financial standing to assume responsibility for the airport and the obligations that accompany it. In addition to demonstrating its willingness and eligibility to the FAA, a prospective sponsor must also apply for and maintain an AOC, which is an intensive endeavor for one without previous airport operating experience.

In visiting with representatives of several public entities in the region, none expressed outright willingness to take over WYS sponsorship. A representative for the town of West Yellowstone indicated they did not believe the town had the financial bandwidth to assume sponsorship, though expressed willingness to "contribute" in some manner. A representative for the Gallatin Airport Authority that oversees Bozeman Yellowstone International Airport in Bozeman indicated the authority board may examine whether taking on WYS sponsorship would be feasible, but also noted that the board would need to find such an arrangement financially and logistically possible. It may expect the town of West Yellowstone to first attempt to assume sponsorship or otherwise demonstrate its commitment to keeping the airport open.

Another possibility would be for multiple public entities to form a regional airport authority to which Yellowstone Airport's sponsorship would be assigned. A regional airport authority consists of two or more municipalities that, through joint resolution, create a board of at least five members. Such an authority may help address some concerns of the stakeholders we spoke with, in that it may remove direct responsibilities from municipal staff, involve and distribute airport responsibilities across multiple stakeholders, and would ensure that local representatives are part of the governing body.

Privatizing Yellowstone Airport

We identified two avenues through which the state could pursue privatization to no longer operate Yellowstone Airport. Airport privatization is a continuum. The least privatized option involves contracting with private entities to be responsible for siloed airport functions like custodial services and terminal concessions; WYS already does so. The most privatized option involves transferring sponsorship to a private entity; in this arrangement, the private entity becomes the sponsor of the airport.

Full privatization of public airports in the United States is uncommon, largely due to the federal airport revenue use restrictions. Further, there is less capital funding available to private sponsors. They are not eligible for some types of FAA grants, and the ones they are eligible for require a larger local share than public sponsor peers. Private sponsors may not collect passenger facility charges to help pay for airport development projects. Further, a private sponsor would not be eligible for the state's Airport Grants and Loans Program awards, nor would they be entitled to issue federally tax-exempt bonds.

Public airport sponsors are more willing to turn to privatization if they are losing money or otherwise unsuccessful; however, such status does not make the airport attractive to private investment. Public airports that are successful may choose not to pursue full privatization as it could lead to a loss of public-sector jobs or the surrender of control of a local or regional economic driver.

WYS privatization must be done via a long-term lease agreement. Section 67-2-301, MCA, permits the department to sell airports only to municipal or state governments, or to the United States Government. It does, however, allow leasing airports or real property acquired for airport purposes to private parties for terms up to 40 years.

We identified two ways in which a public airport sponsor (such as the state) can transfer sponsorship to a private entity:

1. Through the standard change-of-sponsorship approach with the FAA, as previously outlined.
2. Apply for the FFA Airport Investment Partnership Program.

Standard Sponsorship Transfer Process

This approach is the same as transferring sponsorship to a public entity, in that the FAA must find the prospective private sponsor "eligible and willing" to take on all the airport's federal obligations, including the requirement the private sponsor may not divert airport revenues. In this arrangement, the state would not be permitted to use any financial proceeds from the transfer lease for non-airport purposes. The private sponsor would also be required to maintain the airport's public-use status.

Airport Investment Partnership Program

In 1996, Congress created a program to encourage airport privatization in the US. The FAA's Airport Investment Partnership Program (AIPP) is designed to remove barriers for both public and private entities in transferring sponsorship.

The AIPP authorizes the FAA to waive certain federal obligations for successful participants. For example, the FAA may waive revenue-use restrictions for one or both parties so funding may be used for non-airport purposes. Further, private entity participants are also eligible for all AIP grant types and the public entity may no longer be obligated to repay any federal grants or property.

Since its inception in 1996, Luis Muñoz Marín International Airport in Puerto Rico and Airglades International Airport, a cargo hub for South American imports in Hendry County, Florida are the two airports that have successfully privatized via the AIPP without subsequently reverting back to public sponsorship. Hendry County submitted its preliminary AIPP application in October 2010, and its final application was submitted in August 2019 and approved shortly thereafter.

One additional airport completed the application process to privatize but the airport reverted to public sponsorship seven years later after the private sponsor disposed of its lease to focus on different operations. During its tenure, the private sponsor was unsuccessful in increasing passenger traffic. At least eight other public airport sponsors have submitted applications to AIPP but all either eventually withdrew consideration or had their applications rejected by the FAA.

The AIPP program has generated few airport privatization successes in part because of program-specific barriers that still exist. These include the length of time it takes and the subsequent risk of a deal to fall through. The process may take several years. The lengthy time can introduce several risks, such as a change in governmental officials responsible for the airport.

One regional fixed-based operator we spoke with expressed interest in potentially becoming Yellowstone Airport's sponsor if no other options were available to the state. However, they perceive a regional airport authority as the most appropriate sponsorship model for the airport and suggested they would provide support to such an arrangement as the authority saw fit, including becoming the airport operator in a management lease arrangement.

Permanently Closing the Airport

Permanently closing or otherwise abandoning the airport is the least feasible option. While there are several strategies to permanently close the airport, all are either unrealistic or require significant financial investments.

Regardless of method, closing the airport would lead to the property interest reverting back to the US Government. The state would also be required to pay back or reinvest into other airport projects a portion of the federal funding the airport has received over time. This amount is typically equivalent to the remaining useful life of federally funded projects. Based on approximated useful life calculations, we estimated the state could be required to repay or reinvest $21 million to $24.4 million if the airport permanently closed at the end of federal fiscal year 2023. This estimate does not include potential useful life of federal projects slated to be awarded beyond fiscal year 2022.

Requesting Permission from FAA

The most practical approach involves requesting the FAA release the state from all of its federal obligations for the intention of closing. The FAA typically only approves closures when they would lead to a net benefit to the civil aviation system. A net benefit example would be an airport system authority closing a dilapidated airport to direct those resources to expand another airport nearby.

The FAA typically approves closure when a sponsor can demonstrate the airport is no longer needed and normal maintenance no longer sustains the facility. However, the state intentionally allowing the facility to devolve into such conditions could lead to significant financial penalties from AOC and grant obligation violations. Given the airport will be opening a newly constructed airport terminal in 2024, it is further unlikely the airport will soon meet the criteria above.

Waiting Out Federal Obligations

One way to close the airport without FAA approval would be to wait until all grant obligations expire. Most obligations expire when the federal project's useful life ends. The most recent federal grants accepted were for the construction of a new airport terminal and buildings have a useful life of 40 years. As such, the state would need to maintain the airport until at least 2063 without further federal funding.

The airport's current Capital Improvement Plan has around $15 million of airport development projects slated between federal fiscal years 2024 and 2028. It is unlikely the airport would be able to pay for such development projects and any others needed during the waiting period, particularly given annual airport revenues averaged $417,000 between state fiscal years 2017 and 2021. Most of these projects are necessary to maintain FAA AOC standards and operate safely. Failing to maintain these standards can lead to civil penalties, particularly if FAA investigators find such violations are willful (e.g., refusing to pay for safety projects the sponsor knows are necessary).

Abandonment

Acting in violation of federal obligations, such as abandoning the airport, would open the state to significant legal and financial liabilities. The FAA has authority to initiate investigative and administrative actions. It may also take legal enforcement actions it deems necessary to ensure compliance with sponsor obligations, such as cease and desist orders and terminating grant funding eligibility. Such orders may be judicially enforced and failure to comply with court-issued injunctions may result in fines or imprisonment.

Should such a scenario reach the level of FAA requesting judicial enforcement, it is likely the state and FAA would be embroiled in legal proceedings for an indeterminate amount of time. This could lead to expensive litigation requiring significant state staff and financial resources. Litigation could come from the FAA and other airport stakeholders.

Summary

While there are several options the state could pursue to no longer run Yellowstone Airport, the most feasible is transferring ownership to another public sponsor. However, while feasible, the process would require finding a willing and eligible public sponsor and obtaining FAA approval. Other scenarios, such as waiting out grant obligations, would require significant state resources either up-front to maintain the airport or in the form of penalties for failure to do so. The airport deed's reversion clause authorizes the federal government to reclaim the airport's property interest should it fail to operate as a public airport for more than six months. The FAA has final authority in approving any major change in airport sponsorship or operator. Closing the airport would impact both the state and airport stakeholders.

Montana Department of Transportation

Department Response

MONTANA
Department of Transportation

Malcolm "Mack" Long, Director

Aeronautics Division
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September 8, 2022

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LEGISLATIVE AUDIT DIV.

Angus Maciver, Legislative Auditor
Legislative Audit Division
State Capital Rm 160
PO Box 201705
Helena, MT 59620-1705

Subject: Division of Aeronautics Performance Audit

Dear Mr. Maciver,

The Montana Department of Transportation (MDT) appreciates the opportunity to respond to the audit recommendations in the Aeronautics Performance audit 21P-05. We have reviewed the recommendations in this report and have provided our response on behalf of the Department below.

Recommendation #1

We recommend the Department of Transportation and the Board of Aeronautics:

A. Develop Administrative Rules requiring the Board of Aeronautics use a scoring system as the primary basis for awarding Airport Grants and Loans Program funding, and

B. Document all departures from the scoring system by the board when approving funding.

Response: Conditionally Concur.

Corrective actions: The Board of Aeronautics was unable to convene prior to preparing a response to this recommendation however, the Board of Aeronautics will review this recommendation at their next Board meeting. The Department of Transportation will continue to provide support to the Board of Aeronautics in all matters pertaining to the award of Airport Grants and Loans and document the justification of awards.

Recommendation #2

We recommend the Department of Transportation:

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A. Require Airport Grants and Loans Program award recipients submit documentation supporting funding expenditures and actual project costs as part of the award closeout process.

B. Review the documentation to ensure the funding was spent appropriately and that the recipient does not need to reimburse any part of the award.

Response: Conditionally Concur.

Corrective actions: Some Airport Grants and Loans Program award recipients have consultants manage their projects and, upon request, prepare closeout documentation. The Department of Transportation will continue to assess risk on Airport Grants and Loans Program award recipients for the Audit Services Unit to conduct targeted and random audits of award recipients. To fully concur with this recommendation, the Department of Transportation would need to acquire additional FTE.

Recommendation #3

We recommend the Department of Transportation implement sufficient internal controls to ensure the Airport Grants and Loans Program information system data is complete and accurate.

Response: Concur.

Corrective actions: The existing close out form submitted by the awardee affirms total project costs and completion date. The Department of Transportation is acquiring software to assist with management of the Airports Grants and Loans Program. The new management software will allow the department to set internal controls, manage workflows, store documents and policies, and allows for future growth.

Recommendation #4

We recommend the Department of Transportation implement and maintain a written Standard Leasing Policy document to define and centralize Airport Lease Management Program policies, staff roles and their specific procedures, and program documentation.

Response: Concur.

Corrective actions: The Department of Transportation currently documents all leases and licenses on a central spreadsheet. Existing succession planning documents outline processes to manage, track, invoice, create, and enforce lease and license agreements. Additionally, the Department of Transportation is acquiring software to assist with management and centralization of leasing documents and procedures. The new management software will allow the department to set internal controls, manage workflows, store documents and policies, e-sign, and allow for future growth. The Department of Transportation will create a leasing policy that consolidates policies, staff procedures, templates, and other pertinent information.

We want to thank you and your staff for the professionalism during the audit. We appreciate the willingness of the auditors to discuss recommendations and respond to our questions. We look upon the audit process as an opportunity to improve operations and performance.

Sincerely,

Malcolm D. Long

Malcolm D. Long
Director of Transportation

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