

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

CHAPTER 36

Wyoming Aeronautics Loan Program

Section 1. Authority and Purpose.

These rules and regulations are adopted pursuant to W.S. 9-12-703(e) to administer the Wyoming Aeronautics Commission Loan Program.

Section 2. Definitions.

(a) "Administrator" means the Administrator of the Wyoming Department of Transportation (WYDOT) Aeronautics Division.

(b) "Commission" means the Wyoming Aeronautics Commission.

(c) "Division" means the WYDOT Aeronautics Division.

(d) "Board" means the State Loan and Investment Board.

(e) "Office" means the Office of State Lands and Investments.

(f) "Director" means the Director of the Office of State Lands and Investments.

(g) "Revenue-generating facilities" means facilities owned by the applicant that generate revenue from user fees or assessments paid by the beneficiaries of the facilities.

Section 3. General Policy.

The Board shall extend loans under the provisions of these rules and regulations in such a manner and to such applicants as shall, in the Board's judgment, create the greatest benefit for the state's citizens and represent a prudent use of loan funds.

Section 4. Loan Eligibility.

(a) Applicants. Wyoming counties, cities and towns, and joint powers boards specifically involved in providing governing authority over airports and empowered pursuant to W.S. 10-5-101 through W.S. 10-5-204 shall be eligible to apply for loans under these rules and regulations. Joint powers boards applying for loans shall be legally formed and approved before applying.

(b) Purposes. Loans may be extended to public-use airports for construction, development, and improvement of airport facilities generating user fees, except that no loans shall be extended for fuel system or fuel tank removal or for asbestos removal.

(c) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement:

- (i) Costs for any asset that is owned by a private property owner;
- (ii) Costs for tap fees, sewer and water fees, and plant investment fees;
- (iii) All non-cash costs except land which is integral to the treatment process and if allowable under federal law but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes;
- (iv) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (v) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;
- (vi) Costs of tools, supplies and furnishings for capital projects not included in the approved construction contract documents, including but not limited to, capital equipment, hammers, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;
- (vii) Legal fees, except as pre-approved by the Office and Division;
- (viii) Costs related to the issuance of bonds;
- (ix) Costs of elections;
- (x) Costs to establish and form special districts or joint powers boards;
- (xi) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements, site investigations (such as geotech) or in emergency circumstances;
- (xii) Costs for change orders not approved by the Office and Division;
- (xiii) Lump sum contracts unless approved by the Office and Division;
- (xiv) Costs for meals and incidental expenses in excess of federal per diem rates;

Section 5. Application Procedure.

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit 3 copies of their completed application to the Division.

(b) Timing. The Division shall receive properly executed loan applications for loans under this chapter at least 15 working days before the next regular Aeronautics Commission meeting.

(c) Information Required. A properly executed loan application shall be submitted. The Division shall provide the applicant with the application forms. The following items shall be provided in the application package:

(i) A full description of the proposed project, including a licensed engineer's statement of feasibility for the project, if applicable.

(ii) The loan amount requested and the proposed source of repayment.

(iii) A description of other project funding sources committed and the anticipated portion of the project cost to be funded from each source, including any future loan applications under this chapter. A copy of the funding commitment from other participants shall be provided if requested by the Commission.

(iv) Most recent audit of financial statements. If applicant does not have audited financial statements, a current balance sheet and income statement must be provided.

(v) If requested by the Commission, a copy of the joint powers agreement approved by the Attorney General and a copy of the certificate of organization filed with the Secretary of State.

(vi) A list of sources for repayment of this loan, including amounts to be used for this purpose and, if applicable, letters of commitment from prospective lessees to assist in establishing the estimated utilization factor and in calculating repayment capability.

(vii) Other applicable information the Commission deems reasonable, prudent, and necessary.

(d) Preliminary Review. Within 10 working days of receiving an application for a loan, the Division shall notify the applicant, in writing, if the application lacks any item required in preceding subsection (c) of this section. The applicant shall have 10 working days to submit the required information.

(e) Incomplete Applications. Incomplete applications shall not be presented to the Commission for consideration.

Section 6. Evaluation.

(a) Criteria. The Division shall evaluate the applications, and the Administrator shall formulate a recommendation to the Commission using the following criteria:

(i) Whether the user fees or assessments generated by the project will be sufficient to justify the loan as a reasonable and prudent investment of state funds,

(ii) Whether the proposed project is eligible for the Aeronautics Commission Loan Program,

(iii) Whether the proposed project is in compliance with the current Division accepted Airport Layout Plan and the overall development of the airport,

(iv) Whether the applicant is meeting any and all current and past repayment obligations to the Commission, and

(v) The proposed project's merit in relation to the overall state system planning and its usefulness in achieving state goals.

(b) Interagency consultation. The Administrator may request pertinent state agencies to assist in reviewing applications and providing comments to the Division for Commission consideration.

Section 7. Commission Consideration.

The Commission shall consider each loan application, allow for comments from the applicant and the Administrator, recommend the loan amount and comment on the appropriateness and nature of the type of security offered for the loan. The Commission shall then recommend approval or disapproval of the loan request to the Board.

Section 8. Terms of Repayment.

The terms of repayment for loans made pursuant to these rules and regulations shall not exceed 20 years unless explicitly allowed by W.S. 9-12-703 (b). Terms of repayment shall also adhere to the conditions set forth in the specific loan documents. After the initial payment, which shall be prorated, all yearly payments shall be due on the same date each year.

Section 9. Loan Interest Rate.

The interest rate for loans under this chapter shall be five (5) percent per annum or as otherwise established by W.S. 9-12-703(d).

Section 10. Security Interest.

(a) The Board may require a first-position security interest in the revenue-generating facility and the user fees or assessments. The Board and Commission also reserve the right to withhold the applicant's yearly state grant funding and apply those funds to the unpaid loan balance if the applicant defaults on the loan.

(b) During the life of the loan, the applicant shall:

(i) Maintain adequate insurance on the facility,

(ii) Pay all applicable taxes and assessments when due,

(iii) Maintain the facility in good condition, and

(iv) Adhere to and enforce the sponsor's assurances according to the certificate of state airport loan.

(c) If at any time the applicant is found in noncompliance with the above requirements, they will be given thirty (30) days to cure the deficiencies. If after thirty (30) days the deficiencies are not cured the Board may call the loan.

Section 11. Default

In the event of a default, the Office will consult with the Commission on the appropriate way to collect the debt in compliance with state and federal laws.

Section 12. State Loan and Investment Board Actions.

(a) After the Commission recommends an application, the loan application package, containing all items described in Section 5 (c) above, shall be forwarded to the Office for a review of the applicant's credit worthiness. The package shall include a certification from the Commission stating its recommendation of the applicant's loan request. All items contained in Sections 6 through 8 of these rules shall be recorded and noted in the certification.

(b) If the applicant is found to be credit worthy, the Board will consider the application at its next regularly scheduled meeting.

(c) Upon approval of the Board, the Office shall execute the necessary loan documents. The Board shall perfect this loan in the county where the asset is located.

Section 13. Disbursement of Loan Proceeds.

Loan proceeds shall be disbursed in minimum draws of \$1,000 in accordance with a schedule that has been agreed upon and stipulated in the loan agreement. Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursements. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within approved guidelines following review by the Office and the Commission.

Section 14. Audits and Inspections.

The Commission or Board may, at its expense, audit the records of the applicant and inspect the construction and operation of the project at any time during the term of the loan.