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Cover photo illustration by Denver Auditor’s Office staff using, in part, images from Caring for Denver.
AUDITOR'S LETTER

January 5, 2023

In keeping with generally accepted government auditing standards and Auditor’s Office policy, as authorized by city ordinance, we have a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

After following up on the “Caring for Denver” audit report issued in October 2020, we determined the Department of Public Health and Environment fully implemented five recommendations it agreed to, only partially implemented two, and did not implement another two.

During the original audit, we found the department needed to provide better oversight of the Caring for Denver Foundation. Specifically, the foundation had not developed a strategic plan to carry out city ordinance, its key policies were not aligned with requirements or available leading practices, and it needed to improve board policies and governance documents.

Based on our follow-up work, we determined the department and the foundation did not fully address all the risks associated with our initial findings. Consequently, we may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

We did not update the status of the one recommendation the department disagreed with, as we presume it took no action toward implementing that. We include that recommendation in this report as a reference.

We appreciate the leaders and team members at the Department of Public Health and Environment and the Caring for Denver Foundation who shared their time and knowledge with us throughout the audit and the follow-up process. Please contact me at 720-913-5000 with any questions.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Objective
To assess the Denver Department of Public Health and Environment’s ability to oversee the Caring for Denver Foundation based on city ordinance and contract terms, and to assess how the foundation’s strategic plan and its operations align with Public Health and Environment’s strategic plans, city rules and regulations, and leading practices in nonprofit management.

Background
In 2018, Denver voters approved a 0.25% increase in sales and use tax to fund behavioral health services for city residents. As part of the ordinance, supporters created a nonprofit organization called the Caring for Denver Foundation. Under a contract with the city, the foundation awards grants to city agencies and community-based organizations supporting behavioral health.

The Denver Department of Public Health and Environment oversees the city’s contract with Caring for Denver.

The Department of Public Health and Environment Needed to Provide Better Oversight of the Caring for Denver Foundation

- The Caring for Denver Foundation did not develop a strategic plan to carry out the voter-approved ordinance and determine funding priorities as the ordinance required it to do. As of May 31, 2020, the foundation had accumulated almost $41.5 million in unspent tax revenue that city ordinance designated for public services that address mental health, suicide prevention, and substance misuse, among others. Although the foundation developed a report of its strategic funding priorities, that document lacked clear goals, objectives, strategies, key performance indicators, and timelines to help ensure the foundation implemented city ordinance by awarding grants using the designated tax revenue.

- Some of the foundation’s key policies did not fully align with city ordinance, contract terms, or leading nonprofit management practices. Two policies critical to Caring for Denver’s purpose — its grant policy and its use-of-fund-balance policy — included terms and activities that were not addressed in the ordinance or the contract, and in some cases, aspects were not consistent with leading practices.

- The Caring for Denver Foundation needed to improve how it designed and implemented its board policies and governing documents. Caring for Denver’s practices were inconsistent with adopted policies, and we identified gaps regarding the board of directors’ conflict-of-interest and gift disclosure policies, proper authorization of board committees, and a lack of performance evaluations.

Full Year

- 5 Fully Implemented
- 2 Partially Implemented
- 2 Not Implemented
- 1 Disagreed; No Follow-Up

Denver Auditor Timothy M. O’Brien | (720) 913-5000 | www.denverauditor.org
The Department of Public Health and Environment fully implemented five recommendations made in the original audit report. The department amended its contract with the Caring for Denver Foundation, and it reviewed the foundation’s strategic plan and some of its financial management policies, including the board’s policies and procedures. It also duly authorized the foundation’s executive committee.

The Department of Public Health and Environment only partially implemented two recommendations relating to oversight of the executive director’s authority and clear expectations for conflict-of-interest disclosures. It did not address the risks associated with two other recommendations it agreed to implement, as well as those associated with one other recommendation it had disagreed with.

The recommendations the Department of Public Health and Environment and the Caring for Denver Foundation did not fully implement present several lingering risks. Among them:

- The foundation might spend the designated tax revenue on expenses not generally allowed in ordinance. It also might be inappropriately limiting the amounts awarded to city agencies.
- The foundation might not be updating and reviewing its strategic plan often enough, and its procedures still lack proper safeguards against possible abuse and fraud in the executive director’s authority to award certain grants.
- By allowing the foundation to carry forward unspent administrative funds, the department allows the foundation to potentially exceed the 5% cap allowed by the ordinance and the contract.
- By allowing interest income to be used for administrative expenses instead of mental health and substance misuse programs, the department and foundation are not adhering to city ordinance or the voters’ intent.
- By not finalizing self-evaluation policies and procedures, the board may inhibit its ability to consistently assess its impact, learn from previous work, and demonstrate progress.
- Vague ordinance language prevents the department from adequately overseeing the foundation.
FINDING | The Department of Public Health and Environment Needs To Provide Better Oversight of the Caring for Denver Foundation

FULLY IMPLEMENTED

Recommendation 1.2

REVISE CONTRACT TERMS – The Department of Public Health and Environment — in conjunction with the City Attorney’s Office and, as needed, the Department of Finance — should negotiate revisions to the Caring for Denver Foundation’s contract and affirm Public Health and Environment’s oversight responsibilities; specify the department’s ability to review, comment, and approve policies; and clarify other provisions, as needed.

AGENCY ACTION

Agency’s original target date for completion: June 30, 2021

The Department of Public Health and Environment amended its contract with the Caring for Denver Foundation in June 2021. This changed several areas of the contract to affirm the department’s oversight responsibilities over the foundation. Changes mainly involved the administration of the fund, the strategic plan, the public reports requirement, the budget/carry forward requirement, the notice provision, and the scope of work.

The foundation is now also required to submit several documents to the department for review — including its annual draft reports, its grant and financial policies and procedures, and its strategic plan. During follow-up, we confirmed the Caring for Denver Foundation submitted these documents to Public Health and Environment for review. Additionally, we reviewed the feedback the department provided to the foundation through draft documents and emails.

To assess the department’s affirmed oversight responsibilities, we verified the foundation did incorporate the department’s reviews into its annual report, financial policies and procedures, and strategic plan.

Based on this analysis, we consider this recommendation fully implemented.
Recommendation 1.3  

DEVELOP STRATEGIC PLAN – The Caring for Denver Foundation Board of Directors should develop a strategic plan and submit the plan to the Department of Public Health and Environment for the department’s review, comment, and approval. In addition, the Caring for Denver Foundation should incorporate an annual work plan to supplement its strategic plan; this should incorporate specific objectives, measurable metrics, a timeline, and clear linkage to the ordinance’s purposes.

AGENCY ACTION

Agency’s original target date for completion: Dec. 31, 2020

The Caring for Denver Foundation developed a strategic plan for 2020 through 2023 and submitted it to the Department of Public Health and Environment for review. Additionally, the foundation developed work plans for 2021 and 2022, which included goals, measurable metrics, a timeline, and clear references to the ordinance.

During follow-up, we confirmed the department reviewed the plan. Specifically, we looked at the comments the department provided on the foundation’s draft to verify the foundation incorporated the feedback in the strategic plan. For example, the department suggested the foundation clarify why the funding priorities in the strategic plan did not mirror funding priorities listed in city ordinance.

In addition, we verified that the department recommended the foundation use an operational plan as a living document to track progress on key activities. We confirmed that the foundation’s new work plans for 2021 and 2022 included objectives tied to its 2020-2023 strategic plan.

Because of the foundation’s efforts on its strategic plan and work plans, we consider this recommendation fully implemented.

Recommendation 1.6  

REVIEW AND REVISE FINANCIAL MANAGEMENT POLICIES FOR STRATEGIC CONSISTENCY – Once the Caring for Denver Foundation develops a strategic plan as directed in Recommendation 1.3, it should review strategic goals and its financial policies to ensure that these policies are appropriate to its goals. This review should include the investment policy and associated strategies, as well as the minimum and maximum targets outlined in the reserve policy. As warranted, the Caring for Denver Foundation should revise its financial management policies based on the organization’s strategic goals, investment risk, and cash flow position.

AGENCY ACTION

Agency’s original target date for completion: March 31, 2021
The spirit of the original recommendation was to ensure a strategic plan was available to the foundation to guide how it designs its financial policies, specifically so the foundation aligns its rationale for setting reserve targets and investment planning. We found such guidance is now available to the foundation, as noted in our evaluation of how the foundation implemented Recommendation 1.3.

When we analyzed the foundation’s investment policy, we found impact objectives — with a stated focus to benefit stakeholders and to contribute to positive outcomes — aligned with the foundation’s mission, values, and strategic priorities. The policy further incorporates elements of the foundation’s strategic priorities in its investment strategy guidelines by including a focus on social or environmental issues aligned with the foundation’s objectives.

Similarly, we found the operating reserve policy was updated to reflect the leading practices recommended in the original audit for setting minimum and maximum reserves. The administrative expenses set a target maximum of six months, which was directly cited as a leading practice in the original audit, and the grant funding targets are now based on prior year financials instead of revenue estimates.

Because we found the investment policy incorporates strategic guidance and the operating reserves were updated to align with leading practices, we consider this recommendation fully implemented.

Recommendation 1.8

REVIEW AND AMEND BOARD POLICIES AND PROCEDURES – The Caring for Denver Foundation should review its board policies and the procedures intended to demonstrate compliance with those policies to ensure they align with the intended purpose. At a minimum, this review should include the conflict-of-interest and gift disclosure policies. If either does not align with the organization’s purpose for having the policies, the foundation should consider amending its policy, its compliance procedures, or both to better address the organization’s intended purpose.

The Caring for Denver Foundation should consider similar review and amend processes as it develops and implements other board policies to ensure consistency with and relevance to intended purpose.

AGENCY ACTION

Agency’s original target date for completion: March 31, 2021

The Caring for Denver Foundation reviewed and updated its conflict-of-interest policy and updated its gift disclosure form to better address the findings and risks identified in the original report.
We compared the updated conflict-of-interest policy with the city ordinance that outlines the foundation’s purpose, and we confirmed the policy now aligns with the ordinance.

Regarding the gift disclosure form: We collected and reviewed copies of each board member’s form from June 2022 to determine whether the form now included a statement certifying that no gift was received. We confirmed all 13 board members submitted a gift disclosure form, regardless if they did or did not receive a gift — and we verified that the form was updated to include a statement certifying that no gift was received.

Given that both the conflict-of-interest policy and the gift disclosure form were reviewed and updated to address the risks identified during the original audit, we consider this recommendation fully implemented.

**Recommendation 1.9**

**DULY AUTHORIZE EXECUTIVE COMMITTEE** – The Caring for Denver Foundation Board of Directors should duly authorize its board committees and follow procedures in accordance with the organization’s bylaws and leading practices as they relate to authorizing committees. Specifically, the board should amend its bylaws to authorize the executive committee, outline the committee’s membership requirements, and place limits on its authority to act on behalf of the board.

**AGENCY ACTION**

*Agency’s original target date for completion: Dec. 31, 2020*

In accordance with its bylaws, the Caring for Denver Foundation drafted and approved a charter for its executive committee that outlines the committee’s membership requirements. This addresses the risks described by the original audit and meets the requirements of the foundation’s bylaws. Additionally, we found the foundation’s bylaws now place sufficient limits on the executive committee’s authority to act on behalf of the board. No further changes are needed.

In response to our recommendation, the Caring for Denver Foundation consulted with its own outside legal counsel, which concluded the bylaws and new charter sufficiently authorized the executive committee and addressed the risks identified by the original audit. After reviewing the foundation’s bylaws and the new charter for its executive committee, we agree with the legal counsel’s conclusion.

Therefore, we consider this recommendation fully implemented.
### PARTIALLY IMPLEMENTED

**Recommendation 1.5**

**CONDUCT SEGREGATION-OF-DUTIES ASSESSMENT** – The Caring for Denver Foundation should conduct a full segregation-of-duties assessment of operations to ensure segregation-of-duties risks are identified and that policies are designed to appropriately limit any associated risk. Specifically, this should include identifying and mitigating risks regarding the executive director’s authority to approve grant awards of $50,000 or less.

### AGENCY ACTION

**Agency’s original target date for completion: March 31, 2021**

The Caring for Denver Foundation’s external auditors, BKD LLP, evaluated the design of the foundation’s internal controls around segregation of duties. However, BKD’s evaluation was self-stated as not focusing on operational effectiveness and, according to BKD’s letter, relied on only limited sample testing. Therefore, the foundation, even by using an external auditor, did not complete a full segregation-of-duties assessment as we recommended.

Regarding whether the foundation identified and put in place safeguards to mitigate risks concerning the executive director’s authority to approve grant awards of $50,000 or less, we analyzed multiple factors but did not find appropriate controls in place.

First, we analyzed grants with amounts up to $50,000 between April 2021 through August 2022 and we looked for grants where the executive director could have possibly split more than one award among the same grantee. We found no exceptions and therefore no risk.

Next, we looked at the board of directors’ role in vetting and approving executive director-issued grants (i.e., those up to $50,000), but we found no oversight from the board in this process. We also looked at the foundation’s revised grant policy and procedures — but those also had no established compensating controls and safeguards against possible abuse and fraud in the executive director’s authority to award grants up to $50,000.

Despite the foundation’s efforts, not all risks identified in the original audit were addressed. Therefore, we consider this recommendation only partially implemented.
Recommendation 1.7

CLARIFY AND REINFORCE EXPECTATIONS FOR CONFLICTS OF INTEREST – The Caring for Denver Foundation’s leadership should clarify its expectation regarding dual interests and reinforce this by listing the types of relationships it expects members to disclose on its annual conflict-of-interest disclosure form. Leadership should also provide additional and ongoing training to board members as recommended in leading practices.

AGENCY ACTION

Agency’s original target date for completion: March 31, 2021

The Caring for Denver Foundation provided conflict-of-interest training in 2021 and 2022 and has plans to continue doing so each year moving forward. However, the foundation did not update its annual conflict-of-interest disclosure forms to include a list of the types of relationships it expects members to disclose. Doing so would better safeguard the foundation against potential conflicts that would harm the organization’s credibility or create additional opportunities for fraud.

Absent the updated forms, board members may not have the appropriate guidance to ensure they fully disclose all relationships that might present a conflict of interest. Therefore, we consider this recommendation only partially implemented.

NOT IMPLEMENTED

Recommendation 1.4

REVIEW AND REVISE KEY POLICIES FOR ALIGNMENT WITH REQUIREMENTS – The Department of Public Health and Environment should review the Caring for Denver Foundation’s policies and procedures in accordance with its authority to monitor performance. This review should ensure that all financial policies and procedures comply and align with the Caring for Denver ordinance, contract terms, and leading nonprofit management practices including the carry forward and treatment of administrative expenses and investment income.

This should include a review of methods, procedures, and practices for the grant policy, the investment policy, and the reserve policy to identify any gaps between the written policies and the ordinance and contract requirements. If the review identifies discrepancies, Public Health and Environment should work with Caring for Denver to ensure revisions are made.
Agency’s original target date for completion: June 30, 2021

While the Department of Public Health and Environment reviewed the Caring for Denver Foundation’s policies, the department did not ensure the policies complied and aligned with city ordinance and contract terms. Therefore, we determined during follow-up that the department did not correct all the issues the original audit identified.

For example, we found the risk of carrying forward unspent administrative funds remains a concern. Specifically, the foundation may exceed the cap defined in both city ordinance and the original contract that was meant to ensure administrative costs were limited to maximize the amount of Caring for Denver tax revenue that went to people in need. During negotiations for a 2021 contract amendment with the foundation, the department removed the 5% cap on administrative expenses. By deleting the cap, the department agreed to allow the foundation to exceed the limit the ordinance had clearly established — that in any year, no more than 5% of the Caring for Denver tax revenue can be spent on administrative costs.

Meanwhile, the foundation added a new section in its 2022 grant policy that says, “For gifts with no donor designation or restrictions, the foundation will retain a minimum of ten percent for administration and the remainder will be allocated to the grant making budget.” This change to the grant policy is allowed by city ordinance, which says the foundation can supplement the 5% limit on administrative costs by using other funding sources.

We also learned during follow-up that the Department of Public Health and Environment had made no changes to the foundation’s investment policy to ensure it aligns with interest income requirements in the Caring for Denver Special Revenue Fund ordinance. The ordinance says money received from city sales and use tax collections, as well as any interest earned on those dollars, must be deposited in the same fund account.

During follow-up, we learned the foundation reported interest income of about $339,000 in 2021 and of $945,000 in 2022, as of October. The foundation categorized this income as “income without donor restrictions.” However, this continues to go against the express direction of the City Council bill that formalized the setup of the Caring for Denver Special Revenue Fund. That legislation specifically required that interest earnings on Caring for Denver tax collections should be distributed to the foundation and held until awarded and that this money should be reserved for the purpose of supporting mental health and substance misuse services as authorized by city ordinance.¹

Given the Department of Public Health and Environment has not aligned Caring for Denver’s policies and procedures with city ordinance, a significant risk remains related to how the foundation may spend money on

¹ City and County of Denver, Council Bill No. CB19-0081 (Ord. No. 1420).
administrative costs and how it is using interest funds generated from tax revenue. Therefore, we consider this recommendation not implemented.

**Recommendation 1.10**

**PROMOTE AND CONDUCT EVALUATIONS** – The Caring for Denver Foundation Board of Directors should ensure it promotes a culture of evaluation through periodic and regular self-evaluations of board performance, and it should develop and implement evaluation procedures to assess the annual performance of the foundation’s executive director.

**AGENCY ACTION**

**Agency’s original target date for completion: Dec. 31, 2020**

Since the original audit was published, the Caring for Denver Foundation conducted self-evaluations of board members’ performance as well as an evaluation of the executive director. However, the foundation did not finalize policies and procedures to guide its evaluation efforts by the agreed-upon implementation date. Additionally, neither the Department of Public Health and Environment nor the foundation provided us with sufficient evidence to confirm whether the executive director’s evaluation was done accurately or correctly.

In the foundation’s response to our follow-up request, Caring for Denver officials said they completed a self-assessment of the board and a formal third-party evaluation of the executive director in December 2020. Additionally, the foundation reviewed the executive director’s salary in October 2021, resulting in a salary increase.

We confirmed these activities took place, but both Public Health and Environment and the foundation declined to provide us with a full copy of the executive director’s evaluation, despite our multiple requests. Because they would not provide this information, we cannot know what evaluation procedures were used, whether the review followed policies and procedures, or whether the evaluation criteria addressed the risks identified during the original audit.

As mentioned in the original report, evaluations are an essential responsibility of a board. Furthermore, consistent and transparent board oversight procedures are critical to an organization’s credibility. However, we found that as of November 2022, the foundation had not finalized its policies and procedures for guiding evaluation efforts for both the board and the executive director — despite agreeing to implement the recommendation by Dec. 31, 2020.

According to the foundation, the board was still reviewing both sets of draft policies and procedures. Until the foundation finalizes these to guide the evaluations, the foundation may inhibit its ability to consistently assess its impact, learn from previous work, and demonstrate progress toward
Because we were unable to review the criteria for the executive director’s evaluation and because the evaluation policies and procedures for both the executive director and the board are not finalized nearly two years after the specified implementation date, we consider this recommendation not implemented.

**DISAGREED**

**Recommendation 1.1**

**AMEND CITY ORDINANCE** – The Department of Public Health and Environment, in conjunction with the Department of Finance and the City Attorney's Office, should propose amendments to the Caring for Denver ordinance to clarify and affirm Public Health and Environment’s oversight responsibilities and to clarify spending and funding limitations and other sections, as needed.

**AGENCY ACTION**

Officials of the Department of Public Health and Environment took no action to implement this recommendation because they disagreed with it in our original report.

This was the Department of Public Health and Environment’s response to the recommendation when the original report was issued in October 2020:

*In partnership, the Department of Public Health & Environment, City agency partners, and Caring for Denver Foundation agree that clarification of the Department of Public Health & Environment’s oversight responsibilities is needed. Additionally, a review of the spending and funding limitations will be conducted as needed. We believe that rather than changing the voter-approved ordinance language, this level of clarification can be suitably handled within Finding 1.2 by addressing these needs for clarification, and other aspects of the relationship and associated work, by revising the contract terms.*

As noted earlier for the implementation of Recommendation 1.4 regarding revising contract terms, we found the contract and the ordinance still do not align despite the department’s efforts since the original report.

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