



Timothy M. O'Brien, CPA
Auditor

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Contact: Tayler Overschmidt
Director of Communications
tayler.overschmidt@denvergov.org
720-913-5033

Denver Needs a Centralized, Accessible, and Transparent Records Request Process

DENVER – Denver leaders need to do more to fully and transparently respond to open records requests from the public, according to a new audit from Denver Auditor Timothy M. O'Brien, CPA.

Our audit examined Denver's response to records requests compared to other Colorado governments. We found Denver's process is not as accessible or transparent as it could be.

"Transparency touches every other part of the city's agenda, whether it's homelessness, parks, or the COVID-19 response," Auditor O'Brien said. "The city should be able to — and should make it a priority to — fairly and clearly answer the public's questions about these and other important issues according to the law."

We found the city is inconsistent in how it fulfills records requests. It does not have a centralized records request process. As a result, records requests could be misdirected and rerouted, making this process potentially confusing and inefficient.

Generally, "public records" include all documents produced, maintained, or stored by the state or any agency or organization authorized to use public funds.

Deficiencies in Denver's open records response process hinder the public's ability to confidently submit requests, and they hinder the city's ability to comply with state law.

One key focus of the report looks at how some city agencies interact with members of the public who request records. Our audit team found areas of concern from start to finish.

First, the city does not provide as much information or guidance on its website as other Colorado cities and counties about how the public can request records. Other municipalities provide centralized online request forms, a public-facing policy, frequently asked questions, and an agency directory specific to open records.

According to the audit report, without providing much guidance on its open records process, the city leaves the requester largely on their own, with limited options.

Once a request is submitted, we found the city is inconsistent and sometimes late in responding. Fees and waivers are not consistent across the agencies we reviewed.

The Colorado Open Records Act is meant to increase citizens' access to public records. Under normal circumstances, the law specifies that a request must be fulfilled in a "reasonable" amount of time, generally considered three working days. The state law also allows agencies to charge a fee for research and retrieval. The first hour is always free. The city's policy sets the maximum hourly rate at \$33 after the first hour.

We found city agencies vary in how they manage duplicate requests, meaning requests for the same records made within the same year. Typically, after the first request the records should be readily available for subsequent requesters. One agency we looked at charged the same fee for every request, including duplicates, while other agencies would only charge fees for the initial request.

Agencies also do not grant fee waiver requests consistently. Some agencies have a policy to never grant fee waivers, while other agencies grant them on a case-by-case basis.

City agencies also charge different hourly rates. One agency we reviewed, had charged in one instance more than the fee allowable in 2018.

As a result of having nonstandard open records policies and practices, Denver is not responding to records requests equitably. The public could have different experiences depending on the agency they request information from. These varying experiences can have a negative impact on how the public perceives the city's fairness, transparency, and efficiency.

"We received many messages from my constituents who were concerned about this issue," Auditor O'Brien said. "I believe it's important to listen to their concerns and see how the city can do better."

Finally, city agencies do not adequately explain delays or missing information when fulfilling records requests. Failing to communicate in writing that a request is taking longer than the maximum three-day deadline could give the impression the city is not being responsive.

When we tested several agencies' open records processes, we found some requests were incomplete. When we followed up, the city told us that by not providing all the requested records it was implied that they did not have those records. But the audit team found that explicitly informing the public of unavailable records would help manage expectations and relieve potential frustration.

The Mayor's Office disagreed with five of our recommendations. Auditor O'Brien is particularly disappointed in the Mayor's Office's refusal to compile annual information and

citywide data from agencies. Our audit team believes compiling citywide information should not be too burdensome and would contribute to efficiency in open records responses as well as improve overall transparency.

“I am disappointed in the Mayor’s Office’s disinterest in leadership on this issue,” Auditor O’Brien said. “It is worth the effort to answer the public’s questions, and it should be a high priority.”

The audit team found that by improving compliance, consistency, and timeliness, the city can foster trust with the public, decrease confusion, and mitigate reputational risk.

“The city’s records are really the people of Denver’s records,” Auditor O’Brien said. “Unless prohibited by law, we should be making it as easy and clear as possible for people to find information about what their government is doing.”

[Read the Audit](#)

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About the Auditor’s Office

Denver’s Auditor is publicly elected and answers to the voters. The role of the Auditor is to help minimize risks, improve internal controls, maximize efficiencies and strengthen accountability.

About Auditor O’Brien

Denver Auditor Timothy M. O’Brien, CPA, has more than 40 years of auditing and accounting [experience](#). Auditor O’Brien strives to bring greater clarity, transparency and accountability to Denver’s city government for its residents. Elected in 2015 and reelected in 2019, Timothy O’Brien is distinguished from his predecessors by being an actual professional auditor. Auditor O’Brien and his office won their third Knighton Award since 2015 for their 2019 [audit of the Denver Preschool Program](#). They also won a national [Knighton Distinguished Award](#) from the Association of Local Government Auditors for the first Affordable Housing Audit from 2018 and a Knighton Exemplary Award our 2015 [Rocky Mountain Human Services audit](#). Auditor O’Brien also received the [ADA Access Award](#) from the Colorado Cross-Disability Coalition in 2018 for his work on behalf of people with disabilities of all kinds. Auditor O’Brien also received the [2017 Outstanding CPA in Government Impact Award](#) from the [American Institute of CPAs](#). He was honored with the [2016 Jonathan Holtzinger Award of Excellence](#) by the Colorado Chartered Financial Analyst Society for demonstrating the highest standards as a financial and investment professional.

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