FOLLOW-UP REPORT
Denver Zoo
Cooperative Agreement Audit
May 2018

Office of the Auditor
Audit Services Division
City and County of Denver

Timothy M. O'Brien, CPA
Denver Auditor

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City and County of Denver

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May 3, 2018

Mr. Denny O'Malley, Interim Chief Executive Officer
Denver Zoo
City and County of Denver

Ms. Allegra "Happy" Haynes, Executive Director
Department of Parks and Recreation
City and County of Denver

Re: Audit Follow-Up Report

Dear Mr. O'Malley and Ms. Haynes:

In keeping with generally accepted government auditing standards and the Audit Services Division's policy, as authorized by D.R.M.C. § 20-276, our Division has a responsibility to monitor and follow-up on audit recommendations to ensure that audit findings are being addressed through appropriate corrective action and to aid us in planning future audits.

This report is to inform you that we have completed our follow-up effort for the Denver Zoo Cooperative Agreement audit issued January 19, 2017. Our review determined that the Denver Zoological Foundation (Foundation) and the Department of Parks and Recreation (Department) have fully implemented six of the eight recommendations made in the audit report. However, despite the efforts of the Foundation and the Department, auditors determined that the risk associated with elements of the two remaining audit recommendations has not been fully mitigated. As a result, the Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken.

For your reference, this report includes a highlights page that provides background and summary information on the original audit and the completed follow-up effort. Following the highlights page is a detailed implementation status update for each recommendation.

This concludes audit follow-up work related to this audit. I would like to express our sincere appreciation to you and to both Foundation and Department personnel who assisted us throughout the audit and follow-up process. If you have any questions, please feel free to contact me at 720-913-5000 or Emily Owens, Internal Audit Supervisor, at 720-913-5016.

Denver Auditor's Office

Timothy M. O'Brien, CPA
Auditor

REPORT HIGHLIGHTS

Denver Zoo Cooperative Agreement
May 2018

Status

The Denver Zoological Foundation and the Department of Parks and Recreation have fully implemented six recommendations and partially implemented two recommendations made in the January 2017 audit report.

Background

The Denver Zoo was first established in 1896. Until 1956, the City owned, operated, and managed the Denver Zoo through the Department of Parks and Recreation (Department). However, the Foundation assumed the responsibility of managing and operating the Denver Zoo in 1956—per a Cooperative Agreement with the City—after it was organized and incorporated as a nonprofit organization on November 8, 1950. The Denver Zoo's Master Plan states that the Foundation's express purpose is "developing, improving and maintaining the Zoo's gardens and animal exhibits in cooperation with the City and County of Denver."

Purpose

We sought to assess the Foundation's role and activities associated with managing the Denver Zoo as well as the City's and the Foundation's compliance with the Cooperative Agreement.

Highlights from Original Audit

After facing strong opposition to our audit by some Denver Zoological Foundation (Foundation) representatives, we eventually obtained the Zoo's full cooperation and successfully completed our audit, which identified two primary areas of concern regarding both the City's responsibilities as established by the Cooperative Agreement (Agreement) and the Foundation's role as the City's agent for managing the Zoo. First, we found that the City and the Foundation had not adequately maintained compliance with certain sections of the Agreement. Second, we found that the Foundation could have improved its governance to better fulfill its role as agent for the City in operating the Zoo.

Regarding the Agreement, we found that the Foundation was not reimbursing the City for costs associated with Career Service Authority (CSA) employees working at the Zoo. Furthermore, we found that the City was appropriating monies for the purposes of Zoo utility payments into a City controlled special revenue fund but was utilizing the money for CSA employees' payroll and benefits expenses, a practice that is not consistent with the Agreement. We also found that the Foundation had not regularly submitted its budget documentation in the past to the Department's Executive Director as required by the Agreement.

Lastly, we found that while the Foundation's Board of Trustees (Board) was following some best practices, the Board could have enhanced its operating effectiveness by ensuring that all roles and activities of the Board were consistent with internal policies and best practices. For example, we found that the Board's bylaws had not been updated since 1998, there was no formal onboarding process for new Board members, and CEO performance was not being formally evaluated.

Findings at Follow-up

The Denver Zoo has successfully assessed and revised Board member attendance requirements to align with leading practices. In addition, the Foundation and the Department have worked to establish key review and monitoring activities. Also, the Executive Director of the Department was an active participant on the Executive Committee through 2017 until the Zoo disbanded all Board committees. Finally, the Board has continued to develop new member orientation and training requirements, including key elements such as governing documents and oversight obligations. While the Denver Zoo has made strides regarding defining monitoring roles and incorporating leading practices into Board governing documents, there are elements of two audit recommendations that are not fully implemented.

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Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
FINDING: The Denver Zoological Foundation Could Improve Its Role as Agent for the City to Manage and Operate the Denver Zoo.			
1.1	**Amend Cooperative Agreement** – The Foundation, in conjunction with the Department of Parks and Recreation, should work with the City's Budget and Management Office and the City Attorney's Office to develop a plan of action with designated milestones to enable an official review and update of contractual language within the City's Cooperative Agreement with the Foundation to (1) ensure that current practices are formally documented and followed and (2) add a provision requiring that the Denver Zoo maintain its USDA license and accreditation with a leading national zoological association, such as the Association of Zoos and Aquariums, to ensure the health and safety of the zoo animals.	Between June and December of 2017, The Denver Zoological Foundation (Foundation) and the City finalized two amendments to the Cooperative Agreement (Agreement) to address four specific areas of non-compliance identified in the audit. The first amendment revised the language related to the annual appropriation and the payment of utilities to be consistent with current practices; it also clarified the necessary review and approval process for changes to Zoo admission fees, as well as established a requirement for the Zoo to maintain its USDA license and accreditation with a leading national zoological association. Finally, a second amendment updated the section on Board governance to coincide with the amended and restated bylaws.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.2	**Analyze City's Use of Zoological Gardens Special Revenue Fund** – The City should analyze whether the Zoological Gardens SRF should be treated as an SRF in the future and make any necessary changes to this funding mechanism.	In the City's initial response to all audit recommendations, it indicated that this recommendation had already been completed. Specifically, the auditee explained that the Department of Finance analyzed several special revenue funds (SRF) in 2011, including the Zoological Gardens SRF that was established in 1955. This review was done after the 2009 release of Governmental Accounting Standards Board Statement No. 54, which provided clearer fund balance classifications and clarified governmental fund type definitions, including redefining what qualifies as an SRF for financial statement purposes. The City's analysis found that the Zoological Gardens SRF could no longer be presented as an SRF in the City's financial statements because its revenue sources were not restricted or committed. However, they opted to continue using the Zoological Gardens SRF to separately budget and internally report these funds. Although the audit team questioned the need to continue using an SRF, considering the GASB Statement 54 change and the age of the ordinance that established it, no change was made to the City's use of the Zoological Gardens SRF and, thus, no action was taken to re-examine it as a result of this audit.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.3	**Define Monitoring Roles** – The Foundation and the Department of Parks and Recreation should work together, with the City Attorney's Office as necessary, to clearly define the role and responsibilities in a policy document that includes measures to strengthen monitoring practices.	The Department of Parks and Recreation (Department) and the Foundation have developed a "calendar of events" for 2017 and 2018 that clearly defines the responsibilities of each party with a role in the Agreement that should facilitate better monitoring of the Agreement. For example, it documents deliverables associated with the Agreement along with due dates, and a point of contact. However, this effort is part of a pilot that will not be finalized until the end of the third quarter of 2018. In addition, they are still in the process of defining roles for the agencies involved in the Agreement.	**Partially Implemented** **Original target date for completion: May 1, 2017**
1.4	**Assess and Revise Board Member Attendance Requirement** – The Foundation's Board of Trustees should assess the current Board member attendance requirement in its bylaws, and revise as needed, with the goal of improving Board member attendance rates.	The Foundation's Board of Trustees drafted and adopted new bylaws and other governing documents in February 2018, which established a 70 percent attendance requirement across the 10 or more Board meetings a year, which is a more stringent requirement than before. These documents were distributed to Board members for review prior to being adopted and are included in the orientation packet for new Board members.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.5	**City Representation on the Executive Committee** – At least one City representative should serve as a member of the Foundation's Board of Trustees' Executive Committee as allowed by the Cooperative Agreement. At a minimum, the Executive Director of the Department of Parks and Recreation should serve on the Executive Committee or designate a mayoral appointee Board member to serve on the Executive Committee.	Auditors' review of the 2017 Board minutes revealed that the Executive Director of the Department served on the Executive Committee throughout 2017. As the result of a restructuring process, which concluded in December 2017, the Board no longer has an Executive Committee. However, the Executive Director is a member of the new Board of Governors, or Committee of the Whole, which is the governing body for the Foundation. The Executive Director has attended all meetings of the new Board of Governors in 2018.	**Implemented**
1.6	**Formal Board Member Training** – The Foundation's Board of Trustees should continue to develop its new member orientation and training program to include important elements such as the history of the Zoo, all governing documents and policies, an overview of member responsibilities and legal obligations, and financial information. This training program should be consistently used to ensure that new Board members are familiar with bylaws, other guiding documents, and the Cooperative Agreement with the City.	In 2017, the Foundation's Board of Trustees adopted an improved on-boarding process for new Board members. As part of this effort, the Board updated existing and added additional content to the Board orientation reference manual to support the training program. The additional content includes all of the elements suggested in recommendation 1.6. Documentation provided by the Foundation shows that all new members of the Board of Governors are required to attend orientation after being elected. The 2018 orientation is scheduled for May.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.7	**Document the Authority of the Board and Its Committees** – The Foundation's Board of Trustees should develop charters, or other guiding documents, for the Board, Executive Committee, and other standing committees, that clearly document the authority of each body and the responsibilities of committee members.	In the first half of 2017, the Board developed a charter for each active committee. After restructuring, the Board now operates with a small Board of Governors—made up of 11 to 15 members—and a larger Leadership Council, the purpose of which is to support the mission of the Foundation through fundraising and other efforts. The authority of the Board of Governors is established through an updated set of bylaws and additional governing documents, which clearly document the authority and responsibilities of the Board of Governors. Because the Leadership Council is not scheduled to meet until May and has not been given any governing authority, the Board of Governors has not yet developed a charter or other guiding documents for the new Leadership Council. Foundation representatives explained that they plan to develop separate governing documents for the Leadership Council, which will be developed and approved by the Board of Governors after adoption of the updated bylaws. The Board of Governors should ensure governing documents for the Leadership Council are, at minimum, drafted and in effect if the Council is given governing authority in the future.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.8	**Incorporate Best Practices in Bylaws and Governing Document** – The Foundation's Board of Trustees should include the following best practices in its bylaws or other governing documents: (1) conduct and document regular reviews of Board bylaws and governing documents, (2) require a majority of Board members for a quorum, (3) outline the required process for obtaining independent legal advice when necessary to avoid the potential for conflicts of interest, (4) disallow the Chief Executive Officer from acting as a voting member of the Board, and (5) conduct and document formal evaluations of the Chief Executive Officer using a process that incudes input from all Board members.	In 2017, the Board contracted with an outside consultant to evaluate the Board's governance. As a result of this work, the Board implemented three of the five best practices specified in recommendation 1.8: requiring a majority of Board members for a quorum, disallowing the CEO from acting as a voting member of the Board, and conducting and documenting formal evaluations of the CEO using a process that includes input from all Board members. The two best practices that were not adopted were conducting and documenting regular reviews of Board bylaws and governing documents and outlining the required process for obtaining independent legal advice when necessary to avoid the potential for conflicts of interest.	**Partially Implemented** **Original target date for completion: September 1, 2017**

Conclusion

While the Denver Zoological Foundation (Foundation) and the Department of Parks and Recreation (Department) have implemented six of the eight recommendations made in the 2017 Denver Zoo Cooperative Agreement (Agreement) audit report, two have yet to be fully implemented. Despite the Foundation's and the Department's efforts, auditors determined that the risk associated with the audit team's initial findings has not been fully mitigated.

First, the Foundation and the Department took effective action to develop amendments to the Agreement to ensure that current practices are formally documented and to add a provision requiring that the Denver Zoo maintain its USDA license and accreditation with a leading national zoological association. In addition, the Foundation revised its Board member attendance requirements in a manner that should improve Board member attendance rates and ensure that the City is represented in the key Board governing body. The Board also strengthened its Board member training and orientation program and documented the authority of its Board of Governors. Although governing documents have not yet been developed for the Board's new Leadership Council, the Board has committed to developing this guidance.

Risk still exists in relation to the two recommendations that were not fully implemented. First, although the Department worked with the Foundation to develop a document that lists the agencies and individuals responsible for providing deliverables required by the Agreement, it has not yet been finalized. Additionally, they are still in the process of defining the roles of each agency involved with the Agreement. Regarding the second partially implemented recommendation, risk still exists in relation to two best practices that were not adopted. The first practice is establishing a process for obtaining independent legal advice. During our follow-up work, Board representatives indicated that they are doing this in practice but that the process is not formally documented. The second practice in question involves the regular review of the bylaws. Although the new bylaws allow the Board to alter or amend the bylaws, there is no requirement for regular review of the bylaws.

The Audit Services Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken.

On behalf of the citizens of the City and County of Denver, we thank staff and leadership from the Foundation and the Department for their cooperation during our follow-up effort and their dedicated public service.