

# FOLLOW-UP REPORT

Department of Excise and Licenses

*Office of Marijuana Policy Audit*

December 2017

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



**Timothy M. O'Brien, CPA  
Denver Auditor**



The Auditor of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources and providing other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver's government.

The Audit Committee is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City's finances and operations, including the reliability of the City's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

## Audit Committee

---

Timothy M. O'Brien, CPA, Chairman  
Rudolfo Payan, Vice Chairman  
Jack Blumenthal  
Leslie Mitchell  
Florine Nath  
Charles Scheibe  
Ed Scholz

## Audit Management

---

Timothy M. O'Brien, CPA, Auditor  
Valerie Walling, CPA, CMC®, Deputy Auditor  
Heidi O'Neil, CPA, CGMA, Director of Financial Audits  
Katja E. V. Freeman, MA, MELP, Audit Manager

## Audit Team

---

Patrick Schafer, MBA, CPA, CIA, CFE, Lead Auditor  
Darrell Finke, CGAP, Senior Auditor

You can obtain copies of this report by contacting us:



## Office of the Auditor

201 West Colfax Avenue, #705  
Denver CO, 80202  
(720) 913-5000 ♦ Fax (720) 913-5247

Or download and view an electronic copy by visiting our website at: [www.denvergov.org/auditor](http://www.denvergov.org/auditor)  
Audit report year: **2016**



**Timothy M. O'Brien, CPA**  
Auditor

# City and County of Denver

201 West Colfax Avenue, #705 • Denver, Colorado 80202

720-913-5000 • Fax 720-913-5253 • [www.denvergov.org/auditor](http://www.denvergov.org/auditor)

December 7, 2017

Ashley R. Kilroy, Executive Director  
Department of Excise and Licenses  
City and County of Denver

Re: Audit Follow-Up Report

Dear Ms. Kilroy:

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 Office of Marijuana Policy audit issued October 20, 2016. Our review determined that the office has adequately implemented some of the recommendations made in the audit report, while others that were agreed to be implemented by January 2017 are still in progress. Despite the agency's efforts, auditors determined that the risk associated with the audit team's initial findings has not been fully mitigated. As a result, our office 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 agency 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 Patrick Schafer, Lead Auditor, at 720-913-2020.

Denver Auditor's Office

A handwritten signature in black ink, appearing to read "Timothy M. O'Brien", is written over a horizontal line.

Timothy M. O'Brien, CPA  
Auditor



## Office of Marijuana Policy

### December 2017

#### Status

The Office of Marijuana Policy (OMP), now under the Department of Excise and Licenses, has implemented three and partially implemented two recommendations made in our October 2016 audit report.

#### Background

Established in 2014, OMP's mission is to recommend, administer, and implement policies; oversee and coordinate City agencies; and act as a liaison between the City and other local, state, and federal officials, agencies, and stakeholders. To accomplish this, OMP works closely with various City agencies regarding marijuana regulation, enforcement, and education. OMP's appropriated 2016 budget was \$1.2 million. As stewards of marijuana policy in Denver, OMP personnel work closely with City agencies to ensure that the City complies with multiple layers of federal, state, and local laws regarding marijuana.

#### Purpose

The purpose of the audit was to assess the extent to which OMP accomplishes its mission. We also examined the effectiveness of OMP's governance structure, specific policy initiatives, and the City's process for determining how to allocate marijuana tax revenue.

## REPORT HIGHLIGHTS

### Highlights from Original Audit

Our audit found that the Office of Marijuana Policy was a valued addition to the City's organizational structure and had accomplished a great deal in the two years since it was established. City agencies, with whom OMP works closely to accomplish its mission, reported strong collaborative relationships with OMP personnel. Additionally, OMP's strategic planning efforts placed it ahead of benchmark cities we reviewed. However, despite these strengths, we identified several areas where OMP could have worked toward increasing transparency and collaboration regarding the City's marijuana tax revenue and marijuana policy.

First, we identified a lack of transparency with regard to the City's use of marijuana tax revenue. Specifically, most of this revenue is allocated for other City services through the City's General Fund and is not budgeted for marijuana-related expenditures. In addition, only \$9.1 million of the \$14 million in revenue from the Denver special retail marijuana sales tax—which is intended to support marijuana regulation, education, enforcement, public health, and other expenses related to operating the City and its facilities—and part of the state shareback and licensing fees were budgeted for these priority areas in 2016. As a result, visibility to the specific use of those revenue dollars not budgeted for marijuana-related purposes was reduced.

Next, OMP could have improved its outreach to marijuana businesses and the community, which is a fundamental part of its mission. Our focus group with representatives from the marijuana industry demonstrated that OMP's industry outreach activities—including regular electronic bulletins and quarterly check-in meetings—were not reaching a diverse representation of the industry. Further, our focus groups with registered neighborhood organizations and representatives from Denver Public Schools and youth advocacy groups highlighted several areas where OMP could improve its outreach to these entities.

Finally, OMP's tracking of its accomplishments should have been strengthened. Two strategies from OMP's 2015 Strategic Plan were no longer being tracked, even though these strategies had not yet been implemented. Also, OMP did not formally document the outcomes of its various internal meetings, which reduced OMP's ability to demonstrate the value of these meetings.

### Findings at Follow-up

The Office of Marijuana Policy, now under the Department of Excise and Licenses, has increased marijuana outreach through quarterly industry check-in meetings, publication of Marijuana Industry Bulletins, and attendance at Registered Neighborhood Organization meetings. Additionally, the office has improved its documentation to allow for better tracking and monitoring of its strategies. However, the agency can continue to improve the transparency of marijuana-related revenue expenditures and better integrate its performance measures with its goals and strategies from its strategic plan.

For a copy of this report, visit [www.denvergov.org/auditor](http://www.denvergov.org/auditor) or contact the Auditor's Office at 720-913-5000.

# Recommendations: Status of Implementation

Recommendation	Auditee Action	Status
<b>FINDING: Despite Many Accomplishments since Its Recent Establishment, the Office of Marijuana Policy Can Increase Transparency and Collaboration Regarding Marijuana Tax Revenue Spending and Marijuana Policy Development</b>		
<p><b>1.1</b> OMP should work with the Budget and Management Office to develop a separate fund for marijuana-related revenue, or list marijuana-related expenditures as line items in the General Fund, and document this in the Mayor's Budget to improve the City's transparency and accountability with regard to this revenue source.</p>	<p>The Office of Marijuana Policy (OMP) worked with the Budget and Management Office to detail in the Mayor's Budget how approximately \$21 million in special retail marijuana sales tax revenue is spent.</p> <p>First, the revenue pays for various agencies' regulation, enforcement, education, and public health efforts around marijuana. Then it funds the City's deferred maintenance projects, such as transportation, parks, and recreation centers. However, specific programs or efforts that agencies will complete in the four marijuana-related areas listed above are not described in a consistent manner in budget summaries from either the Department of Excise and Licenses or from individual City agencies.</p>	<p><b>Partially Implemented</b></p>

# Recommendations: Status of Implementation

Recommendation	Auditee Action	Status
1.2	<p>OMP should improve its communication with all known marijuana businesses through diversifying the industry's representation in its quarterly industry check-in meetings, striving to increase the number of marijuana businesses receiving the Marijuana Industry Bulletins via email, and timely updating the Newsroom section of the City's Denver Marijuana Information website with all Marijuana Industry Bulletins.</p>	<p><b>Implemented</b></p>
1.3	<p>OMP should identify and implement one or more strategies to increase contact with Registered Neighborhood Organizations, either through regularly attending meetings of RNOs with the largest concentration of marijuana businesses, or convening quarterly check-in meetings with these RNO representatives.</p>	<p><b>Implemented</b></p>

# Recommendations: Status of Implementation

Recommendation	Auditee Action	Status
<p><b>1.4</b> OMP should improve its strategy tracking documentation so that all previous and current strategies are documented along with their current status and the reason for the addition or removal of any strategy.</p>	<p>In November 2016, OMP was merged into the Department of Excise and Licenses. With this merger, OMP strategies were absorbed into the overall goals and strategies of this department.</p> <p>Strategies identified prior to the merger in OMP's draft 2016-2021 Strategic Plan are still being tracked by the department. The department has made significant improvements to its strategy tracking documentation. The improved documentation includes detailed coverage of strategy revisions, an expected date of completion for each strategy, and an intended plan of action for each strategy.</p>	<p><b>Implemented</b></p>
<p><b>1.5</b> OMP should integrate its performance measures from the Mayor's Budget with the goals and strategies from its strategic plan and incorporate more outcome, or impact-related, measures.</p>	<p>Since OMP was merged into the Department of Excise and Licenses, previous marijuana-related performance measures are no longer included in the Mayor's Budget. Additionally, the department does not currently have a centralized document identifying all marijuana-related performance measures in order to tie them to departmental goals and strategies. OMP created additional performance measures, both output- and outcome-related, for areas such as youth education and public health compliance inspections. OMP included these measures in its November 2016 Peak Performance Report and is reporting on them at events such as Denver's annual Marijuana Management Symposium.</p>	<p><b>Partially Implemented</b></p> <p><b>Original target date for completion: January 2017</b></p>

# Recommendations: Status of Implementation

Recommendation	Auditee Action	Status
<b>1.6</b> OMP should formally document the outcomes, such as action items or decisions made, of each of its recurring meetings with City agencies as well as external stakeholders.	In response to this recommendation in the original audit report, OMP officials only agreed in part to this recommendation. However, the Auditor's Office only accepts either "Agree" or "Disagree" as responses. Therefore, we considered OMP's response to be "disagree."	<b>Disagree</b>

# Conclusion

While the Office of Marijuana Policy, which is now under the Department of Excise and Licenses, has implemented some recommendations from our 2016 audit, others have yet to be acted upon or fully implemented. Despite the office's efforts, auditors determined that the risk associated with the audit team's initial findings has not been fully mitigated. For example, the Department of Excise and Licenses should provide increased transparency on how all marijuana revenues will be spent.

Additionally, the office could better integrate its performance measures with its goals and strategies from its strategic plan. Finally, while the office is documenting outcomes and action items for meetings with external stakeholders and select internal City agencies, it did not agree to document these items for all marijuana-related meetings. As a result, 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 Office of Marijuana Policy for their cooperation during our follow-up effort and their dedicated public service.