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Cover illustration by Denver Auditor's Office staff.
AUDITOR'S LETTER

May 20, 2021

The objective of our audit of the Office of the Clerk and Recorder's records management program was to determine whether its operations are governed by effective and efficient controls and processes. The clerk and recorder requested this audit after having been elected in 2019. I am pleased to present the results of this audit.

The audit found the Clerk and Recorder's Office needs to develop a strategic plan to effectively and efficiently manage records. Additionally, the office has not identified how to organize staff to perform work and prevent unnecessary disruptions. The office operates without sufficient policies and procedures and is not taking adequate measures to protect individuals’ personally identifiable information. Because of their sensitive nature, the specific details of that finding, as well as a third finding also related to personally identifiable information, were reported confidentially to the Clerk and Recorder's Office and the independent Audit Committee.

We also note that office leadership initially denied our ability to access copies of legal documents required to complete our analysis. We encountered significant delays before the information was eventually provided.

By implementing recommendations to use leading practices to develop a strategic plan and identify priorities, to conduct a workforce analysis to determine necessary resources for meeting its goals, to develop and document policies and procedures, and to proactively remove personally identifiable information, the office will be better equipped to effectively and efficiently manage records as well as prevent potential identity theft.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, “General Powers and Duties of Auditor.” We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We extend our appreciation to the personnel in the Office of the Clerk and Recorder as well as the City Attorney’s Office and the city’s Technology Services agency who assisted and cooperated with us during the audit. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
The clerk and recorder requested this audit shortly after being elected in 2019. We reviewed operations related specifically to records management and the city clerk function. We did not assess the Elections Division or the Public Trustee Department.

**The Office of the Clerk and Recorder Has Not Developed a Strategic Plan, Impacting Its Ability to Effectively and Efficiently Manage Records**

- The office does not have a formalized plan to prioritize the digitization of records, has not assessed what documents are considered historical or what risks threaten stored records, and is not destroying records in accordance with the city’s records retention schedule.
- The office has not identified how to organize staff to effectively and efficiently perform work and prevent unnecessary disruptions. The office has not conducted a workforce analysis and does not have sufficient succession planning to ensure work continues when staff leave.
- The office operates without sufficient policies and procedures, which impacts the efficiency and effectiveness of its operations.

**The Office of the Clerk and Recorder Is Not Taking Sufficient Measures to Protect Individuals’ Personally Identifiable Information**

- The office does not proactively redact certain personally identifiable information when recording documents and there are inconsistent redaction practices among staff.
- The office does not adequately disclose to individuals and organizations that information being recorded will become part of the public record and therefore will be accessible online.
The Office of the Clerk and Recorder Has Not Developed a Strategic Plan, Impacting Its Ability to Effectively and Efficiently Manage Records

- The Office of the Clerk and Recorder Has Not Effectively Identified Priorities for Records Management ........................................... 9
- The Office of the Clerk and Recorder Has Not Determined How to Organize Staff to Effectively and Efficiently Perform Work and Prevent Unnecessary Disruptions ......................................................... 15
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The Office of the Clerk and Recorder Is Not Taking Sufficient Measures to Protect Individuals’ Personally Identifiable Information

AGENCY RESPONSE TO AUDIT RECOMMENDATIONS

OBJECTIVE, SCOPE, AND METHODOLOGY

APPENDICES

Appendix A – Sampling Methodology and Testing Results
Appendix B – Other Organizations’ Practices
The Denver clerk and recorder is an elected position, serving a four-year term. The current clerk and recorder took office on July 15, 2019, and requested this audit.

As shown in Figure 1 on the following page, the office is divided into the Elections Division and the Recording Division. The Recording Division comprises five departments including: City Clerk, Recording, Policy and Compliance, Public Trustee, and Administration and Communications. The services provided by the departments include:

- **CITY CLERK DEPARTMENT** – Ensures City Council ordinances, resolutions, and contracts are executed correctly and in a timely manner; collects ethics disclosures; manages, preserves, and distributes records; and makes that information available online to the public and other city agencies.

- **RECORDING DEPARTMENT** – Issues marriage licenses and records deeds of trust.

- **POLICY AND COMPLIANCE DEPARTMENT** – Leads the clerk and recorder’s government relations including serving as the legislative liaison to both the Denver City Council and the Colorado General Assembly; coordinates with the City Attorney’s Office for the office’s legal and policy needs; manages various required reports like campaign finance, lobbyist disclosure, and gift reports; and answers internal customer questions to ensure compliance with applicable laws.

- **PUBLIC TRUSTEE DEPARTMENT** – Administers legal foreclosures and sells homes at auction, when necessary.

- **ADMINISTRATION AND COMMUNICATIONS DEPARTMENT** – Works collaboratively with other departments to coordinate service delivery, elevate customer experience, and promote greater access to information.¹

This audit focused on the Recording Division — including the City Clerk Department, the Recording Department, and the Policy and Compliance Department.

FIGURE 1. Office of the Clerk and Recorder Organizational Chart

Source: Graphic designed by Auditor’s Office staff using information from the Office of the Clerk and Recorder.

MISSION AND GOALS – The Office of the Clerk and Recorder’s mission is “to provide customer-friendly processes that are efficient and transparent, records that are easy to access, and elections that are accurate, secure and convenient for voters.”

According to the office’s 2019 Annual Report, after assuming office, the current clerk and recorder began working on “expanding access to the ballot box, preserving and digitizing city records, and ensuring a fair process for those experiencing foreclosure.” The office has additional goals of “providing the people of Denver with accessibility, transparency, and security” in everything the office does.

The Recording Process

“Recording” is the act of putting a document into official county records, which provides a traceable chain of title. Electronic recording — commonly referred to as “e-recording” — is the process of submitting, receiving, reviewing, recording, and returning documents via the internet.

There are four main ways a document can be submitted for recording by the public:

- In person.
- Over the internet by e-recording.
- By mail.

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3 City and County of Denver Office of the Clerk and Recorder.
4 City and County of Denver Office of the Clerk and Recorder.
Some examples of documents that may be recorded are real estate documents, releases of deeds of trust, military discharges, and marriage and civil union licenses.

RECORDING A DOCUMENT – To record a document, a member of the public must submit a document by one of the methods above. Office personnel assign a bar code with a unique reception number to the document for tracking purposes. Paper documents are returned to the submitter after the documents are digitized and uploaded into the system.

Documents recorded during the day are later uploaded in a batch overnight to the Office of the Clerk and Recorder’s online records database, which then makes the documents available for the public to search for and view on the internet the next day. The database has records dating from 1859 through the present.

The office’s main records management software is called CountyFusion. It offers quick and easy access to recorded documents and can deliver instant customer service instead of the wait times that would normally occur via mail. CountyFusion includes cashiering, imaging, indexing technology, and redaction and reporting capabilities, along with performance metrics. The system also provides e-recording and a search portal.

The Office of the Clerk and Recorder contracts with five vendors to provide e-recording services.

ACCESSING RECORDS – Members of the public can access public records in the online records database. Members of the public and other city agencies can also request paper documents that are not yet digitized. Office personnel then retrieve nondigitized documents from one of the office’s five city-owned storage locations or request the document from its off-site storage location to digitize and send to the requestor.

The office also grants permits for bulk digital data requests. If a permit is granted, an entity can retrieve records and pay a monthly fee for the access.

The Office of the Clerk and Recorder keeps both physical and electronic records. Physical records are stored at five city-owned storage locations in Denver and one off-site storage location maintained by a third-party vendor, All American Records Management.

The office retains electronic and physical records according to specified retention periods. One section of the city’s general records retention

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7 The Office of the Clerk and Recorder’s online records database contains over 11 million recorded documents. It is publicly available online at: https://countyfusion3.kofiletech.us/countyweb/loginDisplay.action?countynam=Denver.

The city’s general retention schedule applies to the Office of the Clerk and Recorder and to records relating to elections administration, foreclosures, and preservation of city and county records for public access.

The length of retention period depends on the document type. For example, the city must permanently retain city ordinances, City Council minutes, marriage applications, and recordings. Other documents, like contracts and open records requests, might have varying or more specific requirements.

The office is also required to follow destruction procedures as noted in the city’s general retention schedule. The countdown for retention periods is typically defined by a trigger date such as three years after the expiration of a contract or agreement or the date a file is closed. Office of the Clerk and Recorder personnel can submit a request for destruction when a record reaches the end of its retention period.

The city records manager will review and approve the destruction request if the record meets the destruction eligibility requirements. After receiving approval, the Office of the Clerk and Recorder can physically destroy paper records or erase electronic records.

2020 Budget

Funding to pay for the Office of the Clerk and Recorder’s expenses comes mostly from taxes, fees, and charges for services. According to the 2020 budget, the majority of the office’s expenditures from the General Fund are budgeted to personnel at $3 million, with services and supplies being the second-highest budgeted expenditure at $573,000. By comparison, the appropriations for expenditures in 2019 were $2.4 million for personnel and $571,000 for services and supplies.

The office was budgeted for 33.5 full-time equivalent personnel in 2020 — with eight of those budgeted to the Recording Division. The Recording Division has the second-highest number of budgeted staff and the second-highest expenditures after office administration.

Regulations

The Office of the Clerk and Recorder follows many state and local regulations. For example, city ordinance created the Office of the Clerk and Recorder. It also grants the clerk and recorder their powers and outlines their duties including:

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• Keeping records of the original rolls of ordinances, original contracts, title deeds to public property, and all official indemnity or security bonds.
• Attesting and certifying documents, such as acts of the mayor.
• Registering voters, holding elections, counting votes, issuing certificates of election, and of all other matters pertaining to elections.\textsuperscript{12}

\textbf{EXECUTIVE ORDERS} – While city executive orders apply only to agencies under the mayor, personnel in the Office of the Clerk and Recorder said they do generally follow the city's executive orders. For example, Executive Order No. 8 says the Office of the Clerk and Recorder is responsible for the city's official record of contracts in paper and electronic repositories.\textsuperscript{13} The executive order also says the office attests to the mayor's signatures and keeps official city copies of contracts.

Executive Order No. 64 establishes the policy for the management of official records for the City and County of Denver and establishes a records management program.\textsuperscript{14} As outlined in the executive order, the records management program manages media in all formats including paper, electronic, audio and video recordings, and microfilm. Additionally, the order establishes the Records Management Committee. The order says that the Records Management Committee shall “review and approve policies and procedures governing the records management program developed by the Records Manager.”\textsuperscript{15} The clerk and recorder is the chairperson of that committee and in conjunction with the Records Management Committee is responsible for selecting a records manager for the city.

\textbf{COLORADO LAW} – State law says county clerks are elected to four-year terms.\textsuperscript{16} It says a clerk may accept electronic filing deeds and any other documents as authorized by law to be recorded by the office. The clerk is also considered to be the recorder of deeds and shall have custody and safely keep and preserve all documents that are received for recording or filing by the office.

State law also discusses personally identifiable information. It specifically lists what types of information are considered personally identifiable information.\textsuperscript{17} State law also notes that a government entity, like a city or county, maintains, owns, or licenses personally identifiable information and shall implement and maintain reasonable security procedures and practices to protect such information from unauthorized access, use, modification, disclosure, or destruction.\textsuperscript{18}

\textsuperscript{12} Denver Revised Municipal Code § 8.1.2.
\textsuperscript{15} Exec. Order No. 64, City and County of Denver (2002).
FINDING 1 AND RECOMMENDATIONS

The Office of the Clerk and Recorder Has Not Developed a Strategic Plan, Impacting Its Ability to Effectively and Efficiently Manage Records

When our audit fieldwork ended in early February 2021, the Office of the Clerk and Recorder did not have an officewide strategic plan. Because this audit focused only on records management and not on other functions of the office, we will discuss the lack of a targeted strategic plan only as it pertains to records management.

Guidance from the Government Finance Officers Association defines strategic planning as “a comprehensive and systematic management tool designed to help organizations assess the current environment, anticipate and respond appropriately to changes in the environment, envision the future, increase effectiveness, develop commitment to the organization’s mission and achieve consensus on strategies and objectives for achieving that mission.”

Creating measurable objectives in a strategic plan helps an organization understand how to best use available resources to achieve its long-term goals.

Denver’s annual city budget includes detailed information about all city agencies, including an agency’s mission and strategies to achieve that mission. The budget documents the Office of the Clerk and Recorder’s mission, which includes providing records that are easy to access.

The office’s strategies as they relate to records management are digitizing and preserving original, historical documents so that future generations can have access to aging and deteriorating records.

But despite having digitization, preservation, and accessibility listed in the office’s mission and strategies, the office has not implemented a strategic plan addressing records management to establish a timeline or document how the office is working toward its mission or achieving its strategies.

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20 Government Finance Officers Association.

Officials said their lack of strategic planning is caused by not inheriting a plan from the previous administration. Specifically, they said there were no documented policies or procedures to review when the new administration took office, and they had to first focus on understanding day-to-day work and ensuring that work was being performed correctly. Officials also said the onset of the COVID-19 pandemic in early 2020 delayed creating a strategic plan, but the current clerk and recorder has been in office since July 2019. Staff who were hired before the current administration took office said that office priorities change frequently and that they have taken it upon themselves to create informal plans as no strategic plan has been memorialized.

The Government Finance Officers Association recommends that all government entities create a strategic plan.\textsuperscript{22} Focusing on strategic planning gives an organization a long-term perspective, allows them to cope with changing circumstances, and can provide organizations with a connection between spending, resources, and achieving future goals. The association says that strategic planning for public organizations — such as government — should be based on leaders being effective at strategy to ensure their organizations fulfill their missions, meet mandates, and satisfy the voters.

The Government Finance Officers Associations notes that a sound strategic planning process should follow several steps as shown in Figure 2. The steps include the following: identifying critical issues, developing

\textbf{FIGURE 2. Strategic Plan Steps}

The Government Finance Officers Association provides 13 steps in the strategic planning process.

\begin{figure}[h]
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\includegraphics[width=\textwidth]{strategic_plan_steps.png}
\caption{Strategic Plan Steps}
\end{figure}

\textit{Source: Government Finance Officers Association.}

measurable objectives, and incorporating performance measures. Specifically, the organization must agree upon and develop strategies based on a small number of broad goals. After this is accomplished, the organization creates an action plan that describes strategies for reaching strategic goals. Progress toward goals should be monitored and the strategic plan should be revisited regularly to determine whether any changes need to be made.

Additionally, the U.S. Government Accountability Office says strategic plans set goals and objectives while documenting the effective operations needed to complete those objectives. This allows the organization to produce the intended results while minimizing waste.23

Without a documented strategic plan outlining how the office plans to address its mission and strategies as they relate to records management, the Office of the Clerk and Recorder’s ability to effectively address records management issues remains limited.

We identified several effects of the office not having a strategic plan for records management, including the office not effectively identifying priorities, not organizing staff to perform work effectively and prevent disruptions, and not developing sufficient policies and procedures.

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### 1.1 RECOMMENDATION

**Develop and Document a Strategic Plan**

The Office of the Clerk and Recorder should use best practices, such as those from the Government Finance Officers Association, to develop and document a strategic plan that focuses on officewide and specific goals for records management. The plan should include, at a minimum, goals related to records storage, digitization, and retention. The plan should also allow for progress to be measurable and objective based.

AGENCY RESPONSE: AGREE, IMPLEMENTATION DATE – AUG. 5, 2021
SEE PAGE 31 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.

### 1.2 RECOMMENDATION

**Develop and Document an Action Plan**

The Office of the Clerk and Recorder should develop an action plan to describe how strategies will be implemented, including activities to be performed, associated costs, designation of responsibilities, priority levels, and time frames.

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The Office of the Clerk and Recorder should develop measurable objectives to monitor progress on achieving goals outlined in the strategic plan. Progress towards meeting goals should be monitored and the Office of the Clerk and Recorder should make adjustments to the plan as needed.

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The Office of the Clerk and Recorder should periodically assess and update the strategic plan based on internal and external factors such as demographic and economic factors.

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SEE PAGE 33 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.

The Office of the Clerk and Recorder Has Not Effectively Identified Priorities for Records Management

We observed office practices, examined policies and procedures, and reviewed the citywide records retention schedule. We also compared city processes to eight other city and/or county clerk and recording organizations and several leading practices. Through this analysis, we discovered three areas where the office has not effectively identified priorities for records management.

No Plan or Timeline Exists for Digitizing Records

Although the current administration has said its goal is to scan and preserve all records, the office has not developed a formal plan or timeline outlining a records scanning project.

The office stores records in five city-owned spaces in both the City and County Building and the Wellington Webb Municipal Office Building, where the Office of the Clerk and Recorder is.

In addition to using city-owned space, the office also contracts with a vendor to store records off-site. Most of the records stored with the off-site vendor were not scanned before storage. Because of this, when someone

24 Auditors researched records management programs via survey in the following eight counties and states and compared them to Denver’s records management program: Arapahoe County, Colorado; Douglas County, Colorado; El Paso County, Colorado; Los Angeles County, California; Lee County, Florida; Pueblo County, Colorado; the state of Colorado; and Ventura County, California. For additional information on our methodology, reference Appendix B.
requests a record stored off-site, the office must pay a next-day delivery fee to retrieve the record if it is not accessible digitally, which happens about four times a month.

The 2020 city budget outlines strategies for the Office of the Clerk and Recorder, which include digitizing and preserving original, historical city records for future generations. The budget says that “many of the documents are currently aging and deteriorating.” Additionally, it says that the office will continue a “multi-year initiative to preserve and improve access to the City’s historic records.” Despite this, office staff were unsure exactly how many records still need to be scanned and they said scanning has been a low priority over the last several months.

Best practices from the Colorado State Archives say drafting and implementing a scanning policy should take place before a scanning project starts. The state archives are responsible for establishing and maintaining a records program through documented policies and procedures. The state archivist also reviews and assesses storage space once every three years and compiles a report that documents the number of records that have been converted from paper to digital format and the amount of space conserved.

We also found that scanning records before storing them is standard practice based on our research of eight other state and local clerk and

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recording entities. Of the six who responded to our question, five counties said they scan records before sending them to storage.

Notably, all Colorado counties included in the six that responded to our question scan records prior to storing them.

Staff in Denver’s Office of the Clerk and Recorder said only one employee is responsible for scanning older records, and scanning occurs when records are requested by the public or other agencies. Staff also said this individual has not been able to complete core job duties, like scanning older records, because they have taken on additional responsibilities due to several extended office vacancies.

One of the counties that responded to the survey was Douglas County, Colorado. In 2019, Douglas County recorded 91,643 documents and issued 1,650 marriage licenses. In 2020, Douglas County recorded 134,036 documents and issued 1,687 marriage licenses. By comparison, Denver’s Clerk and Recorder recorded 183,614 documents and issued 8,726 marriage licenses in 2019, and the office recorded 221,478 documents and issued 5,591 marriage licenses in 2020. Douglas County’s Recording Division has 11 full time employees whereas Denver’s Recording and Marriage Division has only eight current employees and one vacancy. While Denver’s Office of the Clerk and Recorder recorded almost 100,000 more documents each year and issued approximately 7,000 more licenses, it has fewer staff.

As the office has not scanned many records and no publicly accessible electronic database exists, individuals cannot easily access historical records, and the records analyst must spend time retrieving documents from multiple locations, including off-site storage, when requests are made. Furthermore, the office has not conducted a needs assessment related to records storage, which makes it unclear whether the office has the appropriate resources or is spending more money on records storage than it needs to.

The Office Is Not Evaluating or Addressing Risks to Stored Physical Records

We also found the Office of the Clerk and Recorder is not assessing or addressing risks that may threaten stored physical records.

According to the Minnesota National Historic Society, a custodian of records has a duty to protect and preserve records from deterioration, mutilation, loss, and destruction.29 It also says that maintaining stable temperatures and appropriate humidity levels while protecting physical records from water and direct light are important considerations.30

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30 Minnesota National Historic Society.
Water can pose a threat to records through both direct damage and by creating a moist environment that promotes mold growth. Best practices say this is why records should not be stored in basements, attics, or near any water pipes.31

Two of the Office of the Clerk and Recorder’s storage spaces in the Wellington Webb Building are in the building’s underground parking garage — with one of the rooms having exposed pipes in the ceiling. The other building the office uses to store records, the City and County Building, has flooded in the past.

31 Minnesota National Historic Society.
Assessing risk is standard practice among the counties we researched. Six of the eight respondents said they do some level of risk assessment for their physical records.

Best practices from the Minnesota National Historic Society also say off-site storage can be a great option for records storage if records are infrequently requested or there is a risk of damage or destruction at an entity's normal records storage facility.\(^\text{32}\)

Although records are stored in multiple locations, Denver’s Office of the Clerk and Recorder does not have formal, documented policies for the storage, handling, and protection of records. Even though the office will sometimes reference guidance from best practices, like the National Archives or Colorado State Archives, despite not having its own policies and procedures in place, the office also does not follow a specific standard for records management practices.

Additionally, certain media formats, like audio and video cassette, degrade over time. The office has records stored on both but has no plan to convert these records into a less risky, digital format.

**HISTORICAL RECORDS** – Historical records are records that have substantial value in telling the city’s story; they should be kept indefinitely. But the audit team found the Office of the Clerk and Recorder does not have a standard for what is considered a historical record, and no one has been tasked with determining what records are historical.

It is likely that many historical records need to be digitized, but without a standard for determining what is historical, the office cannot know how many unscanned physical records have historical value. Additionally, without formal processes for handling, storing, and protecting records, records with historical value could be damaged or destroyed.

**The Office of the Clerk and Recorder Is Not Complying with the City’s Records Retention Schedule**

We found the Office of the Clerk and Recorder does not destroy records in accordance with the citywide records retention schedule.

The city’s general records retention schedule outlines minimum retention periods that all city agencies must follow. The “retention period” is the length of time different types of records should be kept before their destruction. The Office of the Clerk and Recorder uses one schedule — Schedule 15 — that was established in July 2012 and last updated in July 2018. The retention periods laid out in this schedule apply to all information contained within a record, regardless of whether the record is stored in a physical or electronic format. When records have met their retention period, city agencies are supposed to submit a request for destruction to the city records manager to obtain approval for destruction.

\(^{32}\) Minnesota National Historic Society.
ELECTRONIC RECORDS – We found that although there were 9,302 electronic records ready for destruction as of Dec. 31, 2020, none of those records had been destroyed. Additionally, roughly 6,300 of these records were eligible for destruction prior to 2020. Even though these electronic records met the minimum retention period, staff in the Office of the Clerk and Recorder said the documents still need to be evaluated to determine whether any are of historic value before staff submit a request for their destruction.

Nearly all 9,302 electronic records ready for destruction are contracts. The city’s policy specifies a different retention period for each subcategory of contracts. For example, standard contracts should be kept for at least 10 years after the contract expires. It also lists a permanent retention period for certain agreements that are historical. But because the Office of the Clerk and Recorder does not have a standard for what documents are historical, it is unclear how many of these records can be destroyed.

In addition to determining whether contracts are historical, the office also needs the City Attorney’s Office to provide a contract subclassification for each contract because the city’s retention period varies based on these subclassifications. Staff from both the Office of the Clerk and Recorder and the City Attorney’s Office said they felt all contracts should be considered historical, but this is not reflected in the citywide retention schedule.

Although the City Attorney’s Office approves all policies and procedures developed for the retention, storage, recovery, and destruction of records, nothing is documented to reflect that the process for records destruction should include requesting approval from the City Attorney’s Office.

PHYSICAL RECORDS – The audit team also found that some contracts stored as physical records are being kept well past their retention period.

We examined one contract between the city and Dr. Martin Luther King Jr. that is being stored and kept beyond its retention period. The contract could have been at risk of being destroyed according to the city’s retention schedule if no evaluation had been done for whether it had historical significance.

Records retention schedules are created and followed to ensure compliance with statutory, regulatory, operating, and administrative requirements and needs. Records retention schedules ensure records that are needed for city business are kept protected and accessible while obsolete records are regularly destroyed. When asked why the office keeps records beyond the minimum retention period, staff said that destroying records is a low priority for the office. Management has not set a plan or a date to address destruction of records and the retention schedule the office relies on has not been updated since July 2018.

This schedule may be outdated and could benefit from an update, but this can be done only at the request of the office through the city records manager. The office does not have a regularly scheduled review period for making updates to the retention schedule.
This contract between the City and County of Denver and Dr. Martin Luther King Jr. is stored along with other records. The 1964 contract with the city’s Commission on Community Relations was to secure the services of a qualified individual — King — for consultations, lectures, and related services. PHOTO BY AUDITOR’S OFFICE STAFF

Because the records retention schedule has not been recently reviewed or updated, it may not accurately reflect current processes, especially as it relates to the retention of contracts. Because of this, the office may be retaining documents unnecessarily, which could lead to limited storage space and less efficiency of operations.

**1.5 RECOMMENDATION**

**Establish and Document Criteria for Historical Documents**

The Office of the Clerk and Recorder should use best practices to establish and document criteria for historical documents to ensure valuable documents are kept and preserved beyond the established retention period.

**AGENCY RESPONSE:** AGREE, IMPLEMENTATION DATE – AUG. 5, 2021

SEE PAGE 33 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.
1.6  RECOMMENDATION  Develop an Appraisal Process

The Office of the Clerk and Recorder should develop an appraisal process for evaluating the historical value of documents based on established criteria. The process should be documented in a procedure.

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SEE PAGE 34 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.

1.7  RECOMMENDATION  Review and Revise Retention Period for Contracts

The Office of the Clerk and Recorder should work with the City Attorney’s Office to review and revise the retention period for contracts to align with the definition of historical documents and existing retention practices.

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1.8  RECOMMENDATION  Review and Revise the Retention Schedule

The Office of the Clerk and Recorder should review and revise Schedule 15 of the city’s general records retention schedule to ensure all inventory is accounted for and to clarify and consolidate categories of records.

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SEE PAGE 35 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.

The Office of the Clerk and Recorder Has Not Determined How to Organize Staff to Effectively and Efficiently Perform Work and Prevent Unnecessary Disruptions

The Recording Division of the Office of the Clerk and Recorder does not have adequate workforce planning to ensure it meets its organizational goals. This has caused problems with ensuring the quality of the office’s work and meeting its goals. We specifically identified several examples of staffing and succession planning problems.

The Office Cannot Ensure Efficiency and Effectiveness for Several Processes because of Staffing and Succession Planning Issues

The office does not have a primary person responsible for some duties or documentation of former staff members’ responsibilities. For example, one person scans historic documents, but that person has not had time for scanning because they have had to fill other staff roles due to vacancies.
Furthermore, the office does not have a primary administrator for CountyFusion, its online records database, which could create inefficiency in making changes in the system or assisting with issues. We also found that no one is monitoring contracts because the person responsible has left the office; therefore, the office does not have assurance vendors are meeting contract terms.

Another issue we found with succession planning and staffing is that management has not replaced staff who have left and did not prioritize documenting staff responsibilities. For example, one issue is that the recording manager left unexpectedly in August 2020 without leaving detailed written procedures for their duties, and the position remained unfilled as of January 2021 while the office continued to work with the Office of Human Resources to fill the position. The deputy clerk and recorder took over those duties in addition to their regular responsibilities.

Even though officials said they have a good understanding of each other’s roles, without documentation of duties and processes, there may be some ambiguity in responsibilities.

For example, after the recording manager left, staff were unsure of the exact processes for handling bulk permits, which are permits for companies downloading a large amount of recorded documents regularly. This lack of knowledge could result in inefficient or inequitable processes for bulk permits where each customer is charged differently because of an inconsistent process.

The recording manager was also in charge of addressing complaints with customers, but since the position was vacated and the process left undocumented, there is a possibility that complaints have not been addressed in a consistent manner.

### TABLE 1. Cause and Effect of Workforce Issues

<table>
<thead>
<tr>
<th>Staffing or Succession Issue</th>
<th>Effect or Potential Effect</th>
<th>Cause</th>
</tr>
</thead>
<tbody>
<tr>
<td>No primary person responsible for addressing complaints</td>
<td>Complaints may not be addressed in an organized manner</td>
<td>Management has not replaced staff who have left and did not prioritize documenting staff responsibilities</td>
</tr>
<tr>
<td>Staff unsure of bulk permit processes</td>
<td>There could be inefficient or unfair bulk permit processes</td>
<td></td>
</tr>
<tr>
<td>No primary administrator for CountyFusion</td>
<td>No one person to contact for CountyFusion assistance or changes</td>
<td></td>
</tr>
<tr>
<td>No one responsible for contract monitoring</td>
<td>No assurance that contract vendors are meeting terms</td>
<td></td>
</tr>
</tbody>
</table>

Source: Auditor’s Office analysis based on interviews with staff in the Office of the Clerk and Recorder.
The Office Has Not Completed a Workforce Analysis to Ensure It Meets Current and Future Needs

According to current office staff, the previous administration’s staffing organization “did not make sense,” and there has been additional, recent staff turnover. Office managers said they recognize that succession planning is a problem.

When asked about staffing plans, the clerk and recorder said they wanted to reorganize by adding an appointed recordings manager to supervise the recordings manager, the public trustee, and the city clerk. This appointment would have to be approved by Denver voters through a ballot measure. When auditors asked what the office would do if the ballot measure did not pass, officials did not have a specific answer beyond possibly adding a project manager. The ballot measure that proposed this change in November 2020 failed, and the office had not decided how to proceed as of January 2021.

While the office has identified staffing and succession planning as issues, managers have not completed a workforce analysis to ensure the organization meets current and future needs and prevents unnecessary disruptions in staffing and day-to-day tasks. Officials started to address succession planning in a piecemeal way by working with the Office of Human Resources on a workforce readiness project to capture current job duties for each individual. One employee started the process before they retired in 2020, and only one other employee had completed the process as of January 2021.

The U.S. Office of Personnel Management says the purpose of workforce planning is to enable organizations to meet current and future workforce needs and prevent unnecessary disruptions in maintaining a workforce.33

Figure 3 on the following page shows a workforce analysis framework. The steps to create the workforce strategy include job and organizational design, internal development, training, recruitment, performance management, succession planning, and outplacement.34 In addition, the U.S. Government Accountability Office says management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objectives.35


34 Organizational design is the process of aligning organizational and position structures with the strategic mission and objectives of the organization.

The Office of the Clerk and Recorder should complete a workforce analysis and document a strategy to meet its goals, including plans for job and organizational design, internal development, training, recruitment, and succession planning.

AGENCY RESPONSE: AGREE, IMPLEMENTATION DATE – AUG. 5, 2021
SEE PAGE 35 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.

The Office of the Clerk and Recorder Operates without Sufficient Policies and Procedures

The office is not operating as effectively as it should be because it has insufficient policies and procedures. Specifically, we found the office lacks documented review procedures to ensure quality in four areas:

- Review processes.
- Contract monitoring.
- Service provider reports — or what are otherwise called “system and organization controls” reports.
• Customer service processes.

Because the office has not documented its policies and procedures sufficiently, it cannot guarantee these processes occur. This could result in substandard or incomplete public documents, contractors not in compliance with their contracts, systems lacking appropriate financial control reporting, and missed opportunities to improve customer service.

**REVIEW PROCESSES** – The Office of the Clerk and Recorder has several written procedures that do not include quality assurance or review processes, such as the procedures for scanning copies of older documents, recording and marriage processes, and city clerk processes.

• **SCANNING COPIES OF OLDER DOCUMENTS** – The purpose of this procedure is to provide guidance to office staff on scanning hard-copy records. It includes detailed instructions on the preparation and formatting of scanned documents.

• **RECORDING AND MARRIAGE PROCESSES** – These are the policies and procedures for the Recording Division, which records and issues marriage licenses and certificates. The procedures include daily tasks, marriage procedures, recording procedures, indexing procedures, and miscellaneous processes.

• **CITY CLERK PROCESSES** – These are detailed procedures for processing City Council documents and searching for records.

The lack of quality assurance policies and procedures could result in issues with the quality of work the office produces. Without review processes, documents could be scanned or recorded incorrectly or incompletely, resulting in people not receiving accurate information.

We reviewed marriage license and civil union documents, city ordinances and resolutions, and other types of recorded documents such as deeds and court documents to identify potential quality issues.

We also reviewed documents for illegibility, looking for any elements that made part of each document unreadable, such as blurred letters, folded pages, or cutoff pages. To test for missing page numbers, we reviewed documents to see whether page numbers were in order, and we identified any obvious missing pages. We determined illegible documents or those with missing pages would be considered to have a critical error, and that a critical error rate above 5% would be unacceptable.

**DEFINITION OF INTERNAL CONTROLS**

According to the U.S. Government Accountability Office, internal controls are “the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the [organization].” They serve “as the first line of defense in safeguarding assets” and “help managers achieve desired results through effective stewardship of public resources.”
For documents created using marriage and recording and city clerk procedures, we found no illegibility issues or incomplete pages. Therefore, the quality of the marriage and recording documents and city clerk documents appears to be adequate.

However, we did identify issues with the quality of city clerk and City Council documents scanned by office staff according to the digitizing procedure. These issues could be due to a lack of review processes. We reviewed 45 documents randomly selected from a population of 77,303 documents and found six documents, or 13%, contained illegibility issues. From this, we concluded with 90% confidence that at least 4,638 documents likely had an issue related to illegibility.

In addition, four of the six scanned documents with illegibility issues did not match the original document. For example, one scanned document was cut off at the bottom and, when we reviewed the original, there was an additional signature and sentence about publication that was not visible on the scanned version. In this instance, staff said this was likely a user error related to sizing. Also, one of the examples that did match the original had a better-quality physical version that should have been scanned instead of the poorer-quality copy, which had illegible sections of text.

While the Office of the Clerk and Recorder has detailed desk-level procedures, it lacks written documentation of management responsibilities and procedures and has no quality assurance policy. Staff said that managers have a good understanding of each other’s responsibilities, but they do not have supporting documentation. Staff said that office procedures were written with the primary user in mind and do not include managerial tasks. Managers in the Recording Division also said they discussed building in quality assurance processes, but the procedures they provided did not include steps for quality assurance.

Leading practices from the U.S. Government Accountability Office say managers should document quality assurance responsibilities of the organization and develop and maintain documentation of its quality assurance system.36

However, officials in the Clerk and Recorder’s Office say there are no documented management review processes for recording and marriage procedures. For city clerk processes, staff say they discussed creating review processes for City Council documents, but as of January 2021, they had not provided documented review processes. In addition, the procedure for scanning and retaining documents does not have review processes because one person mainly completes the scanning, and that same person

finds and corrects errors during day-to-day operations.

Guidance from the U.S. National Archives and Records Administration says quality control and assurance processes should be used to ensure digitization is done properly.37 Additionally, the National Archives and Records Administration guidance says that in most situations, quality assurance and control should be done in a two-step process: The scanning technician should do initial quality checks during production, followed by a second check by another person.38

**CONTRACT MONITORING** – The Office of the Clerk and Recorder does not have contract monitoring processes that align with city rules and regulations for its five e-recording contracts. These contractors facilitate the e-recording process of submitting, receiving, reviewing, recording, and returning documents via the internet. The city employee who was previously monitoring these contracts left the office and has not been replaced, and the office has not assigned anyone to assume this responsibility. The office also has no documented policies and procedures for contract monitoring. Therefore, the five e-recording contracts are not being monitored, and the office is not assessing contractors’ performance to gauge whether all the e-recording contracts are necessary or whether documents e-recorders produce are of an acceptable quality.

The city’s Executive Order No. 8 outlines the city’s guidelines for preparing and executing contracts. It details contractual oversight responsibilities for city agencies and says that policies and procedures should be established and implemented for monitoring contracts.39 According to management and staff within the Office of the Clerk and Recorder, city executive orders, like Executive Order No. 8, have always been followed by the office even though, as an independent agency, it is not required to follow them.

Best practices from the National Association of State Procurement Officials also recommend that contract monitoring require contract management — which includes preparing a contract administration plan and tracking whether a contract is working as intended. It also includes monitoring performance to ensure everyone performs their duties in accordance with the contract.40 Because the Clerk and Recorder’s Office employee in charge of contract monitoring left the office and their role has not been filled, no one is currently responsible for contract management.

Finally, according to the U.S. Government Accountability Office, managers should create and implement monitoring activities including documented

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38 U.S. National Archives and Records Administration.


policies and procedures.\textsuperscript{41} The Office of the Clerk and Recorder does not have documented policies and procedures outlining the contract monitoring process, and the previous administration did not provide any to the current administration.

**SERVICE PROVIDER REPORTS** – The Office of the Clerk and Recorder did not obtain service provider reports for CountyFusion and the five e-recording vendors for 2018 and 2019.

CountyFusion is the primary system for calculating payments for in-person and mail-in recordings. The e-recording vendors also take payments from customers and are part of an e-recording revenue process in which the recording fees are deducted from the e-recording vendors’ accounts and become revenue for the city. Because of this, accurate financial reporting is important. If these financial control reports are not obtained and reviewed, the Office of the Clerk and Recorder will not have evidence of an independent review from an outside firm or assurance to determine whether CountyFusion and the five e-recording vendors have adequate controls over financial reporting. Adequate controls reduce the risk of asset loss and helps ensure financial statements are complete and accurate.

The American Institute of Certified Public Accountants provides guidance regarding examinations of service providers or organizations.\textsuperscript{42} In this instance, the e-recording and CountyFusion vendors are the service organizations and the user organization is the City and County of Denver. The office could use a service provider report to ensure that the service provider is operating as expected. However, Clerk and Recorder’s Office staff said they did not collect these reports because the previous administration did not share documents with staff or the new administration about these reports.

**CUSTOMER SERVICE** – The office does not consistently use the customer service data it collects to make informed decisions and ensure it meets its mission “to provide customer-friendly processes that are efficient and transparent.”\textsuperscript{43} The office previously used a touchscreen system to allow in-person customers to rate their transactions using emoticon buttons. However, in March 2020 this practice was stopped because of the COVID-19 pandemic and the risk of using high-touch surfaces.

The office used the previous touchscreen feedback to evaluate employee performance and gauge overall customer satisfaction. The office also has an online survey available in recording team members’ email signatures for customers to provide feedback and the office receives feedback..


through emails, cards, and letters from customers.

Although the office collects customer service data, it does not have customer service-related policies and procedures and is not documenting or ensuring that negative customer service incidents and reviews are resolved in a standard and timely fashion. For example, management said that to their knowledge, most complaints were previously addressed via phone by the recording manager, who retired recently. This procedure is not documented, and another manager has generally taken on recording manager duties. The office has no records of specific follow-up actions to address negative feedback.

In addition, office staff inconsistently provide disclosure information to the public about how recorded documents become part of the public record and are available online. The differences depend on the individual clerk processing the information and how that information is submitted to the office.

The office may be missing opportunities to align its customer service practices with its mission of providing high-quality customer service. Ineffective analysis of this data prevents the office from identifying trends in the complaints it receives, which may point to the need for additional training, the root cause of problems, or the need for internal process changes.

While providing quality customer service is an office goal, management has not developed related policies and procedures and does not always use or collect meaningful data that may help better inform decisions. According to best practices by the U.S. Government Accountability Office, managers should use quality information to achieve objectives. In addition, managers should use quality information to make informed decisions and evaluate the organization’s performance in achieving key objectives and addressing risks.

Overall, the lack of documentation for the review processes, contract monitoring, service provider reports, and customer service is because of staff turnover, a lack of documentation from the previous administration, and current management not prioritizing documentation of these items.

However, according to the U.S. Government Accountability Office, documenting policies and procedures and updating them as processes change is an important part of an effective internal control system. Additionally, managers should document in policies the internal control responsibilities of the organization and develop day-to-day procedures depending on how quickly the organization makes changes and complexity of the day-to-day processes.

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Further, the standards recommend that managers periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks.

<table>
<thead>
<tr>
<th>1.10</th>
<th>RECOMMENDATION</th>
<th>Create and Document Review Processes</th>
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<tbody>
<tr>
<td>The Office of the Clerk and Recorder should create and document review processes to provide quality assurance for the following procedures: digitizing and retaining copies of older documents, recording and marriage processes, and city clerk processes. Management should periodically review the procedures for continued relevance and effectiveness in achieving the office's objectives or addressing related risks.</td>
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<tr>
<td>AGENCY RESPONSE: AGREE, IMPLEMENTATION DATE – AUG. 5, 2021</td>
<td>SEE PAGE 35 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.</td>
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<table>
<thead>
<tr>
<th>1.11</th>
<th>RECOMMENDATION</th>
<th>Obtain and Review Service Provider Reports</th>
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<tbody>
<tr>
<td>The Office of the Clerk and Recorder should obtain and review service provider reports from contracted vendors on a yearly basis. The office should develop a policy and procedure to ensure this task is completed every year. The office should identify the staff who should perform this duty.</td>
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<tr>
<td>AGENCY RESPONSE: AGREE, IMPLEMENTATION DATE – AUG. 5, 2021</td>
<td>SEE PAGE 36 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.</td>
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<tr>
<th>1.12</th>
<th>RECOMMENDATION</th>
<th>Establish Contract Oversight</th>
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<tbody>
<tr>
<td>The Office of the Clerk and Recorder should establish policies and procedures focused on ensuring contract compliance while clarifying and formalizing roles within the office for contract oversight.</td>
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<td>AGENCY RESPONSE: AGREE, IMPLEMENTATION DATE – AUG. 5, 2021</td>
<td>SEE PAGE 36 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.</td>
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The Office of the Clerk and Recorder should draft customer service-related policies and procedures for identifying, collecting, documenting, and analyzing data associated with both positive and negative reviews. Additionally, the office should define specific roles and responsibilities related to customer service.

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SEE PAGE 37 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.
FINDING 2 AND RECOMMENDATIONS

The Office of the Clerk and Recorder Is Not Taking Sufficient Measures to Protect Individuals’ Personally Identifiable Information

Colorado law discusses what is considered personal identifying information.\textsuperscript{47} State law also says government entities should implement and maintain reasonable security procedures and practices to protect such personal information from unauthorized access, use, modification, disclosure, or destruction.\textsuperscript{48}

While state law does not specifically outline what these security procedures and practices should include, the Office of the Clerk and Recorder could be more stringent by redacting certain personally identifiable information from recorded documents to prevent the information from being available on the office's public online records database.

We separately communicated specific details related to this finding to the Office of the Clerk and Recorder to protect individuals' information as much as possible while still maintaining transparency with the public about the shortcomings in the office's handling of certain personally identifiable information.

We found that the Office of the Clerk and Recorder’s online records database contained documents with certain personally identifiable information. The online records database is an online recording database for the Office of the Clerk and Recorder with over 11 million records. The database contains documents such as city ordinances, city contracts and agreements, city rules and regulations, oaths of office, and other miscellaneous documents.

During our fieldwork, we tested different types of public documents to provide an estimate of how many documents containing certain personally identifiable information might be posted in the online records database. We shared our sampling methodology with the Office of the Clerk and Recorder.

Specifically, we looked at two types of public documents. From those groups, we randomly sampled 316 documents out of 241,795 that had recorded dates from Dec. 1, 1999, to Nov. 30, 2020. We were able to estimate and provide additional details about the type and number of documents that likely contain certain personally identifiable information.

Because of our findings, we notified the Office of the Clerk and Recorder on Jan. 20, 2021, that certain personally identifiable information could

be accessed publicly on the office’s website and that the information was being mishandled by the office. Office management did not respond until Feb. 12, 2021, and disagreed with our assertion that they were mishandling certain personally identifiable information.

Officials said state law did not require the redaction of certain personally identifiable information, and officials said that they do not have the resources required for the additional technology and labor that would be needed to undertake a redaction project.

We surveyed 16 state and local clerk and recording entities to compare the city’s practices related to personally identifying information with other government agencies. Out of the eight responses we received, six organizations said they do not post personally identifiable information in a publicly available database. The remaining two said they had no online records database.

The six respondents with an online database said they do some type of proactive redaction of certain personally identifiable information, either by partially or fully redacting the information. One of the two counties that did not have an online records database said they still redact personal identifying information before any non-staff person views the document.

Officials at the Colorado State Archives said they follow federal guidelines and state law, which may have stricter standards. At times, the Colorado State Archives exercises further restraint by redacting personally identifiable information based on internal policy. Similarly, Douglas County officials said that because they are proactive in redacting documents by office policy, they are already in compliance with state laws regarding personally identifiable information.

We also interviewed personnel in Denver’s Technology Services agency regarding the city’s responsibility to protect personally identifying information. Technology Services personnel discussed the city’s Executive Order No. 143, which establishes the city’s protected data privacy policy and the formation of the Information Governance Committee. The committee helps to provide guidance and oversight for the policy.⁴⁹

The executive order includes personally identifiable information as part of protected data. However, Technology Services personnel said the order applies only to agencies under the mayor, so the Office of the Clerk and Recorder is encouraged but not required to comply. Office of the Clerk and Recorder officials have said they generally follow the city’s executive orders.

Technology Services personnel said they believe certain personally identifiable information should not be available online. Additionally, they suggested the clerk consider redacting this information before putting a document online.

PUBLIC NOTIFICATION – The Office of the Clerk and Recorder either does not disclose or provides limited disclosure to individuals and organizations alerting them that documents become a part of the public record.

Specifically, we found the office provides no disclosure to individuals and organizations regarding e-recorded documents and mail-in documents becoming part of the public record when posted in the online records database. Additionally, for in-person documents recorded at the office, staff said they verbally notify the individual that the document will become part of the public record; however, they do not specifically mention that the document will be publicly visible on the internet.

Office staff also said a person can record a document containing another person’s personally identifiable information without that person’s knowledge.

OUTDATED POLICY – The office’s redaction policy has not been updated since 2017. The policy mentions that certain document types can be released only to the person listed on the record; however, this is no longer practiced by the office. Additionally, there are inconsistent practices among office staff for redacting certain personally identifiable information. Some staff always redact this information on public documents while others do not.

Denver residents and other individuals could be exposed to identity theft if their personally identifiable information is posted publicly in the Office of the Clerk and Recorder’s online records database. The Office of the Clerk and Recorder should take efforts as soon as possible to protect individuals’ personally identifiable information.

The following recommendations contain general language. We confidentially communicated more detailed recommendations to the Office of the Clerk and Recorder.
2.1 RECOMMENDATION

Follow Executive Order No. 143

The Office of the Clerk and Recorder should follow the city’s Executive Order 143 related to data and information privacy to protect the personally identifiable information of individuals.

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2.2 RECOMMENDATION

Develop and Document Policies and Procedures for Redaction

The Office of the Clerk and Recorder should work with the Information and Governance Committee to develop and document a policy and procedure that is in alignment with Executive Order No. 143, and is also more stringent than state law, in order to proactively redact certain personally identifiable information on all document types before the document becomes publicly available in the city’s online records database.

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2.3 RECOMMENDATION

Redact Personally Identifiable Information

The Office of the Clerk and Recorder should retroactively redact certain personally identifiable information from its online records database. The office should document the steps they took to retroactively redact this information.

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2.4 RECOMMENDATION

Develop and Document Policies and Procedures for Public Disclosure

The Office of the Clerk and Recorder should develop policies and procedures to inform anyone who records a document that their document will become part of the public record and will be posted publicly in the city’s online records database, which can be viewed by anyone on the internet.

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SEE PAGE 40 FOR THE AGENCY’S FULL RESPONSE TO OUR RECOMMENDATIONS.
May 5, 2021

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Records Management.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on April 16, 2021. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1
The Office of the Clerk and Recorder Has Not Developed a Strategic Plan, Impacting Its Ability to Effectively and Efficiently Manage Records

RECOMMENDATION 1.1
The Office of the Clerk and Recorder should use best practices, such as those from the Government Finance Officers Association, to develop and document a strategic plan that focuses on officewide and specific goals for records management. The plan should include, at a minimum, goals related to records storage, digitization, and retention. The plan should also allow for progress to be measurable and objective based.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
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<tbody>
<tr>
<td>Agree</td>
<td>08/05/2021</td>
<td>Eleanor Schalow</td>
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Narrative for Recommendation 1.1

The Clerk and Recorder’s office has adopted a records management strategic plan as of April 14th, 2021. The plan addresses records storage, digitization, indexing, and...
preservation. The plan also reviews the current state of the office’s records management operations and sets benchmarks for improvement.

### RECOMMENDATION 1.2
The Office of the Clerk and Recorder should develop an action plan to describe how strategies will be implemented, including activities to be performed, associated costs, designation of responsibilities, priority levels, and time frames.

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**Narrative for Recommendation 1.2**
The strategic plan also includes detailed project objectives and steps to address gaps in records management practices. The plan also includes a timeline and a list of resources needed to complete all the objectives. Projects requiring resources beyond those generally allocated to the Records Management program will be documented with action plans which will be incorporated into the strategic plan as addenda.

### RECOMMENDATION 1.3
The Office of the Clerk and Recorder should develop measurable objectives to monitor progress on achieving goals outlined in the strategic plan. Progress towards meeting goals should be monitored and the Office of the Clerk and Recorder should make adjustments to the plan as needed.

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**Narrative for Recommendation 1.3**
We will monitor our objectives from the strategic plan and make updates as need to our project plans and timelines which will be incorporated into the strategic plan as addenda.
RECOMMENDATION 1.4
The Office of the Clerk and Recorder should periodically assess and update the strategic plan based on internal and external factors such as demographic and economic factors.

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Narrative for Recommendation 1.4
We will review the strategic plan bi-annually and annotate adjustment to goals, priorities, and timelines which will be incorporated into the strategic plan as addenda.

RECOMMENDATION 1.5
The Office of the Clerk and Recorder should use best practices to establish and document criteria for historical documents to ensure valuable documents are kept and preserved beyond the established retention period.

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Narrative for Recommendation 1.5
We will create guidelines for evaluating the historical significance of certain records based upon best practices from the National Archives and Records Administration as well as other records management agencies.

RECOMMENDATION 1.6
The Office of the Clerk and Recorder should develop an appraisal process for evaluating the historical value of documents based on established criteria. The process should be documented in a procedure.

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Narrative for Recommendation 1.6
We will work with the City Attorney’s Office to develop a procedure based on best practices determined per recommendation 1.5. The City Attorney’s office will be consulted in the review process for determining historical value.

RECOMMENDATION 1.7
The Office of the Clerk and Recorder should work with the City Attorney’s Office to review and revise the retention period for contracts to align with the definition of historical documents and existing retention practices.

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Narrative for Recommendation 1.7
Our office will consult with the City Attorney’s Office and City Records Manager to establish an appropriate retention period for contracts based on industry standards.

RECOMMENDATION 1.8
The Office of the Clerk and Recorder should review and revise Schedule 15 of the city’s general records retention schedule to ensure all inventory is accounted for and to clarify and consolidate categories of records.

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<td>08/05/2021</td>
<td>Eleanor Schalow</td>
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</table>
Narrative for Recommendation 1.8
Our office will work with the City Attorney’s Office and City Records Manager to update Schedule 15 of the City Retention Schedule.

RECOMMENDATION 1.9
The Office of the Clerk and Recorder should complete a workforce analysis and document a strategy to meet its goals, including plans for job and organizational design, internal development, training, recruitment, and succession planning.

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Narrative for Recommendation 1.9
We are aware of current staffing issues, particularly within the City Clerk department and will plan a workforce analysis to evaluate current needs. We will also create documentation for succession planning and other operations vital to office continuity.

RECOMMENDATION 1.10
The Office of the Clerk and Recorder should create and document review processes to provide quality assurance for the following procedures: digitizing and retaining copies of older documents, recording and marriage processes, and City Clerk processes. Management should periodically review the procedures for continued relevance and effectiveness in achieving the office’s objectives or addressing related risks.

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Narrative for Recommendation 1.10
We will add quality assurance procedures to the suggested procedures where appropriate. Since hiring a new City Clerk and Recordings Manager, we are in a better position to...
adopt oversight and quality assurance practices over digitization, recordings, and marriage processes by way of supervisor evaluation of employee work products.

### RECOMMENDATION 1.11
The Office of the Clerk and Recorder should obtain and review service provider reports from contracted vendors on a yearly basis. The office should develop a policy and procedure to ensure this task is completed every year. The office should identify the staff who should perform this duty.

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**Narrative for Recommendation 1.11**
We will request a SOC report from our vendors. We will work with Technology Services to implement a plan to review reports and conduct service organization control analysis. We will also develop policies and procedures for third-party SOCs reports.

### RECOMMENDATION 1.12
The Office of the Clerk and Recorder should establish policies and procedures focused on ensuring contract compliance while clarifying and formalizing roles within the office for contract oversight.

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**Narrative for Recommendation 1.12**
Since hiring a Technology Manager, we now have a designated person to conduct comprehensive contract oversight. Our office will establish and document policies and procedures for this process.
RECOMMENDATION 1.13
The Office of the Clerk and Recorder should draft customer service-related policies and procedures for identifying, collecting, documenting, and analyzing data associated with both positive and negative reviews. Additionally, the office should define specific roles and responsibilities related to customer service.

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</table>
| Agree                                 | 08/05/2021                                                                                     | David Hughes  
Rachel Duran Zimmer                                                  |

Narrative for Recommendation 1.13
Our customer feedback is collected in office via a touchpad. Since moving services online during COVID and limiting contact with surfaces in the office, we have been forced to put data collection on hold. In preparation for return to full service, we will establish standard practices for reviewing and analyzing customers’ reviews and incorporate analysis of collected data as part of administrative responsibilities over each division.

AUDIT FINDING 2
The Office of the Clerk and Recorder is Not Taking Sufficient Measures to Protect Individuals’ Personally Identifiable Information

RECOMMENDATION 2.1
The Office of the Clerk and Recorder should follow the city’s Executive Order 143 related to data and information privacy to protect the personally identifiable information of individuals.

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</table>
| Agree                                 | 08/05/2021                                                                                     | Victoria Ortega  
David Hughes                                                    |
Narrative for Recommendation 2.1
Agree to follow the policy of Executive Order No. 143. When Clerk Lopez requested this audit, he invited recommendations to improve operations, including additional controls to promote the privacy of personally identifiable information under public records statutes. He, like many public records custodians, wrestles with the long-standing problem of protecting individual privacy rights while at the same time ensuring public access to the public land records system. The Clerk and Recorder maintains his independent oversight authority as the county clerk and recorder to perform the acts and duties required of county clerk and recorders under Colorado laws. The Office of the Clerk and Recorder looks to the Executive Order for guidance and provides a representative to participate in the meetings of the Information Governance Committee. Like the counties surveyed, Denver has stringent standards to view documents carefully at the time of recording and completes proactive redactions of certain personally identifiable information before completing a recording. We are not surprised at the results of the survey of the 16 governmental entities. In our experience, redaction practices vary from jurisdiction to jurisdiction. That all the entities said they do not post personally identifiable information does not mean that their online databases lack any documents containing personally identifiable information. We quickly found 13 records in one county’s database with certain personally identifiable information fully available to anyone on the internet even though that county said it did not post such information. We look forward to continued participation on the committee and developing privacy policies with practical solutions in furtherance of the policies in the Executive Order. Our goal is to both further privacy concerns and solidify the integrity of the public records land system.

RECOMMENDATION 2.2
The Office of the Clerk and Recorder should work with the Information and Governance Committee to develop and document a policy and procedure that is in alignment with Executive Order No. 143, and is also more stringent than state law, in order to proactively redact certain personally identifiable information on all document types before the document becomes publicly available in the city’s online records database.

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Narrative for Recommendation 2.2
Agree to update policies and procedures for redaction. We will seek guidance from the IGC, the Colorado County Clerks Association, and the City Attorney’s Office to develop policies and procedures pertinent to implementing applicable state laws and recommended redaction practices.

RECOMMENDATION 2.3
The Office of the Clerk and Recorder should retroactively redact certain personally identifiable information from its online records database. The office should document the steps they took to retroactively redact this information.

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<td>Victoria Ortega</td>
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Narrative for Recommendation 2.3
Agree to redact or restrict access from the online database. We will research redaction technology and practices and seek funding for retroactive redaction projects. It may be impossible to locate every document containing certain personally identifiable information in the public registry, which contains over 11 million records. Once sufficient funding is obtained, we seek guidance from the IGC, the Colorado County Clerks Association, and the City Attorney’s Office to develop policies and procedures to implement those projects. As of May 3, 2021, images for certain document types most likely to contain certain personally identifiable information have been restricted from online viewing.

RECOMMENDATION 2.4
The Office of the Clerk and Recorder should develop policies and procedures to inform anyone who records a document that their document will become part of the public record and will be posted publicly in the city’s online records database, which can be viewed by anyone on the internet.
Narrative for Recommendation 2.4
Agree to develop policies to inform the public their recorded document will become part of the public record. We share the concern to increase awareness that once recorded, a document becomes part of the public record and will be made available for online access through the clerk and recorder’s website. Often, those who record documents with a county clerk and recorder intend to provide public notice of the filer’s personal interest in the matter reflected in the recorded document. We agree to develop policies and procedures to inform the public that their document will be part of the public record once recorded.

Please contact Deputy Clerk and Recorder Victoria Ortega via Microsoft Teams with any questions.

Sincerely,

[Signature]

Victoria Ortega
Deputy Clerk and Recorder

c: Valerie Walling, CPA, Deputy Auditor
Katja E. V. Freeman, MA, MELP, Audit Director
Kharis Eppstein, CGAP, Audit Manager
OBJECTIVE

To determine the extent to which the Office of the Clerk and Recorder’s operations are governed by effective and efficient controls and processes.

SCOPE

The audit reviewed the Office of the Clerk and Recorder’s processes and controls for storing, tracking, and accessing records maintained by the office. We reviewed documentation to support practices and internal controls from July 2019 through November 2020. Additionally, we reviewed public documents available in the online records database that were recorded between Dec. 1, 1999, and Nov. 30, 2020. Finally, we reviewed scanned documentation from 1865 through 2020 and additional legal documents from Jan. 1, 2016, through Feb. 9, 2021.

The audit did not include a review of the Public Trustee Department or Colorado Open Records Act processes as these were reviewed in 2019 and 2020 by our office. Additionally, we did not include the Elections Division in our audit scope.

According to generally accepted government auditing standards, “auditors should report any significant constraints imposed on the audit approach by information limitations or scope impairments, including denials of, or excessive delays in, access to certain records or individuals.” During the audit, we encountered significant constraints involving our ability to obtain and review legal forms and their corresponding recorded documents. Additionally, using an audit trail from the online records database, we found that the recorded documents associated with these forms had recently been edited during the time the office refused to provide them to us for our review. The delays and corresponding document edits impeded our ability to accurately determine if the office was compliant with office procedures and the law. The results of this analysis were disclosed to the Office of the Clerk and Recorder separately because of the sensitive nature.

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METHODOLOGY

We used several methodologies to gather and analyze information related to the audit objectives. These methodologies included but were not limited to:

- Interviewing the following individuals:
  - Personnel from the Office of the Clerk and Recorder.
  - Personnel from the City Attorney's Office.
  - Personnel from Technology Services.
- Reviewing the following criteria:
  - Federal law relating to evidence, procedure, and certification for payments.
  - The Government Finance Officers Association's guidance on developing strategic plans.
  - The American Institute of Certified Public Accountants' “Attestation Standards: Clarification and Recodification.”
  - The American Institute of Certified Public Accountants’ “Assurance and Advisory Services: SOC-1 – SOC for Services Organizations.”
  - The Minnesota Historical Society’s “Managing Your Government Records: Guidelines for Archives and Agencies.”
  - Article 80 of Colorado State Archives law.
  - Titles 14, 18, 24 and 30 of Colorado state law.
  - The state's Executive Order D 2020 014 and associated extensions.
  - City and County of Denver ordinances.
  - The city’s Executive Order Nos. 8, 18, 64, and 143.
  - The city's general records retention schedule.
  - The mayor’s 2020 budget.
- Reviewing and analyzing the following:
  - Documentation related to the office's records management policies and procedures compared to leading practices.
- Documentation related to cost of the office's five city-owned spaces for records storage.
- The office's methods for storing documents and other historical records.
- The office's total records, both hard copy and digital, compared to the city's retention schedule.
- The office's hard copy records that have not been digitized.
- The office's process for processing marriage applications and conducting marriages during the COVID-19 pandemic.
- Marriage and civil union statistics for the city.
- The office's organizational chart and documentation related to staffing and succession planning.
- Documentation related to the office's customer service procedures.
- The office's 2019 annual report.
- The office's Qmatic data for customer service from January 2018 through December 2019.
- The office's employee handbook.
- The section of the 2020 budget on the office's strategies.
- The roles and responsibilities of the city's records manager compared to the functions of the Office of the Clerk and Recorder.
- The office's website and information provided to the public.
- Agendas for office and team meetings.
- The city's privacy impact statement policy.
- The office's fixed-asset listing.
- The office's cash handling and accounting procedures.
- A sample IRS billing support voucher.
- A sample customer invoice for bulk digital data.
- A sample American City Business Journals invoice.
- A list of available Enterprise Cashiering System cash register reports.
- The office's segregation-of-duties matrix.
- Prior audits of the Office of the Clerk and Recorder conducted by the Denver Auditor's Office.
- 2017 audit report of the Adams County Clerk and Recorder's Office.
- Baylor University's records management self-assessment.
- City of Minneapolis' 2015 records management audit.
- Florida Housing Finance Corp.'s 2020 records management audit.
- City of Glendale, California's 2017 records management audit.
- City of Brownsville, Texas' 2020 records management audit.
- A list and description of the pertinent information systems used by the Office of the Clerk and Recorder.
- Conducting a trend analysis of the office's revenues and expenditures for 2016 through 2018.
- Conducting a walk-through of all records storage locations in city facilities.
• Conducting a benchmarking analysis as discussed in Appendix B with information from the following entities: Los Angeles County, California; Ventura County, California; Arapahoe County, Colorado; Douglas County, Colorado; El Paso County, Colorado; Pueblo County, Colorado; Lee County, Florida; and the Colorado State Archives.

• Performing sampling and testing against reviewed criteria as discussed in Appendix A.
APPENDICES

Appendix A – Sampling Methodology and Testing Results

Sampling Methodology

RECORDING AND MARRIAGE AND CITY CLERK PROCEDURES – We chose the population based on the Office of Clerk and Recorder procedures that lack quality assurance processes and the documents available to search in the online records database for July 2019 through November 2020 based on the audit scope.

For recording and marriage and city clerk processes, we included document categories for assignments, court documents, deeds, liens, marriage licenses and civil unions, miscellaneous, addendums, amendments and ratifications, covenants, foreclosures, historical documents, plats and maps, subordinations, releases, uniform commercial code documents, and ordinances and resolutions. The total population was 298,743.

We determined a discovery sample would be the most appropriate, which involves the use of a sample to determine whether a percentage error does not exceed a designated percentage of the population. If the sample does not contain errors, then the actual error rate is assumed to be lower than the minimum unacceptable rate. We decided on an expected error rate of 5%, and if the discovery sample found more errors, more testing might be needed.

We used the EZ-Quant statistical sampling tool to determine our sample size. We based this on the following criteria:

• A critical error rate of 5%.
• A maximum government risk of 10%.

This resulted in a sample size of 45.

Auditors decided to use sample stratification by document category and selected items from the categories for deeds, releases, liens, miscellaneous, assignments, marriage and civil union, court documents, uniform commercial codes, and “other” — which combined categories with few items including amendments/ratifications, subordinations, covenants, plats and maps, foreclosures, addendums, and historical documents. Auditors determined the percentage each sampling category made up compared to the total. Then auditors used a formula to determine sample size count. Each group needed to have at least two items, so we adjusted the count as needed. Auditors determined the sample size for deeds was 18, releases was 11, liens was seven, miscellaneous was three, and all remaining categories were two.

Based on the sample size quantity and population sizes, auditors used a random number generator to select the sample for each category. Auditors then downloading the sample selection documents from the online records database.

To test the possible effect of the lack of quality assurance, which is that documents are either incomplete or illegible, auditors used the following attributes:
• **MISSING PAGE NUMBERS** – This is a test for completeness. We reviewed page numbers for each document and noted the number that appeared to be missing based on the sequential order. Any obvious missing pages resulted in a failure. We note that this test may not have detected all missing pages. If there were pages at the end of the document, for example, that were not scanned, they would not be obviously missing.

• **ILLEGIBLE/INCOMPLETE** – We reviewed documents for illegible pages that made any part of the scanned document unreadable, including but not limited to a blurry scan, folded page, or a page cut off at the bottom, sides, or top. We noted any details on the illegibility. This test would not detect all nonobvious page cutoffs — for example, if we were unaware that a line had been cut off at the bottom of a page. Any errors that resulted in the work being unreadable were considered a fail. In addition, if a page appeared cut off with the potential that the document could be incomplete, this was considered an exception and a fail.

We considered exceptions to either of these tests a failure because a document should contain all readable content in its digital record. Based on the test, it should be noted that there are limitations to the test and there could be additional missing pages or illegibility that we may have been unable to detect simply by reviewing the scanned document online without comparing it to the original document.

**DIGITIZING OLDER DOCUMENTS** – We chose the population based on the Office of the Clerk and Recorder procedures that lacked quality assurance processes and the documents that the Office of the Clerk and Recorder said made up the bulk of the digitization processes from the office’s drive. The total population was 773,303.

We determined a discovery sample would be the most appropriate, which involved the use of a sample to determine whether a percentage error does not exceed a designated percentage of the population. If the sample does not contain errors, then the actual error rate is assumed to be lower than the minimum unacceptable rate. We decided on an expected error rate of 5%, and if the discovery sample found more errors, more testing might be needed.

We used the EZ-Quant statistical sampling tool to determine our sample size. We based this on the following criteria:

- A critical error rate of 5%.
- A maximum government risk of 10%.

This resulted in a sample size of 45. Based on the sample size quantity and population sizes, we used a random number generator to select the sample documents. To test the possible effect of the lack of quality assurance, where documents were either incomplete or illegible, we used the same attributes described for recording and marriage and city clerk processes above for missing page numbers and illegible/incomplete content.

**Testing Results**

The following are additional details of our testing results in support of the items noted in the findings of the report.

**RECORDING AND MARRIAGE AND CITY CLERK PROCEDURES** – All items passed the test without exception. Because this was a discovery sample, this means the critical error rate was not higher than 5% with a maximum government risk of 10%. Therefore, no further testing was needed, and the error rate was within our expected rate of 5%.
DIGITIZING OLDER DOCUMENTS – We found six exceptions, or a 13% sample error rate. From this, we can conclude with 90% confidence that the percentage of documents with illegible portions is between 6% and 24.6%. In other words, we expect at least 4,638 documents to have an issue related to illegibility.

To determine whether the exceptions were because of problems with the source material or quality assurance in scanning, we examined via teleconference the original documents for the six exceptions. We added an attribute to determine whether scanned copies matched original copies — the purpose of which was to further determine whether the issues of illegible/incomplete documents were because of a scanning issue or a problem with the original.

Four of the six documents we reviewed with illegibility issues did not match the original document. Also, one of the examples that did match the original had a better-quality version that should have been scanned instead of the poorer-quality copy that was scanned, which had illegible sections of text.
Appendix B – Other Organizations’ Practices

We sent a survey to 16 organizations about records management, including practices related to personally identifiable information in public documents, physical and digital records storage, and customer service. We asked additional questions of Colorado organizations, including how marriage applications and licensing were handled during the COVID-19 pandemic.

Auditors selected organizations based on population size similar to Denver, similar clerk and recorder functions to Denver such as marriage and document recording functions, as well as special considerations such as best practices recommended by the Denver Clerk and Recorder's Office.

Eight of the 16 organizations responded; however, not all organizations responded to all questions. The organizations that responded were Arapahoe County, El Paso County, Pueblo County, and Douglas County in Colorado; Los Angeles County and Ventura County in California; Lee County in Florida; and the Colorado State Archives.
Office of the Auditor

The Auditor of the City and County of Denver is independently elected by the residents 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. He also provides 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 residents' confidence and avoiding any appearance of a conflict of interest.

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Our Mission

We deliver independent, transparent, and professional oversight in order to safeguard and improve the public's investment in the City and County of Denver. Our work is performed on behalf of everyone who cares about the city, including its residents, workers, and decision-makers.