FOLLOW-UP REPORT
Agency for Human Rights and Community Partnerships
Disability Parking Enforcement Program
October 2018

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Audit Services Division
City and County of Denver

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AUDITOR’S REPORT

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

This report is to inform you that we have completed our follow-up effort for the Disability Parking Enforcement Program audit issued August 18, 2016. Our review determined that the Agency for Human Rights and Community Partnerships and the Right-of-Way Enforcement Agency have adequately implemented only two of the five recommendations made in the audit report. Therefore, the risk associated with the audit team’s initial findings has not been fully mitigated. As a result, the Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken.

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

This concludes audit follow-up work related to this audit. I would like to express our sincere appreciation to personnel within the Agency for Human Rights and Community Partnerships, the Right-Of-Way Enforcement, and the Disability Accessible Parking Program who assisted us throughout the audit and follow-up process. If you have any questions, please feel free to contact me at 720-913-5000 or Cody Schulte, Internal Audit Supervisor, at 720-913-5066.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Disability Parking Enforcement Program
October 2018

Follow-up Status
Of the five recommendations in our original August 2016 audit, the Agency for Human Rights and Community Partnerships (HRCP), the Right-of-Way Enforcement Division (ROWE), and the Denver Accessible Parking Program (DAPP) have implemented two, partially implemented one, and failed to implement two.

Objective
The objectives of the original audit were to determine whether the City ensured that disability parking was properly maintained and effectively enforced and whether the Denver Revised Municipal Code needed to be updated to fully support disability parking.

Background
The Americans with Disabilities Act (ADA) is a comprehensive civil rights law that prohibits discrimination against individuals with disabilities. Regarding accessible parking, ADA’s Titles II and III require governments and private businesses to maintain their facilities such that they are accessible to persons with disabilities. Prior to the audit, the City primarily carried out its ADA parking enforcement through the all-volunteer Disability Parking Enforcement Program.

Highlights from Original Audit
Despite the many characteristics that make Denver highly accessible, we found that the City needed to act to ensure that accessible parking was readily available for residents and visitors. Although the City appeared to have appropriate procedures in place to ensure that accessible parking was established when parking lots and parking structures were first built, we found evidence of parking lots that were not in compliance with ADA standards. This condition existed because the City lacked a strategy and effective process for ensuring that accessible spaces were retained and maintained over time. This was evident in four areas:

1. There was no one City agency tasked with ensuring that disability spaces were maintained and monitored.
2. There was no inventory listing all locations of accessible parking spaces throughout the City.
3. The former Disability Parking Enforcement Program (DPEP), through a group of volunteers, performed the majority of enforcement work for the City, but lacked sufficient resources and policies that would have evenly distributed enforcement and promoted accountability.
4. Other City agencies that could have enforced accessible parking requirements—the Denver Police Department and the Right-of-Way Enforcement Division—did not prioritize such work, leaving the bulk of enforcement activities to the DPEP volunteers.

The ADA obliges governments to provide the required number and type of accessible parking spaces in parking lots. The instances we observed of noncompliant accessible parking spaces observed were primarily due to the City’s failure to prioritize monitoring lawful maintenance and use of these spaces after ADA compliance was initially demonstrated. The failure to prioritize accessible parking in the City negatively impacts our community members living with mobility impairments.

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RECOMMENDATION STATUS OF IMPLEMENTATION

FINDING: The City Should Take Action to Ensure that Accessible Parking Is Readily Available for Our Residents and Visitors with Disabilities

Recommendation

1.1 **Identify responsible agency** - The Agency for Human Rights and Community Partnerships and the Denver Office of Disability Rights should work with other City stakeholder departments, such as the Right-of-Way Enforcement Division, to determine which City agency would be best suited to identify and remediate accessible parking spaces that are not being maintained in accordance with the Americans with Disabilities Act.

Status: Not Implemented (August 2018)

Auditee Action

Despite several attempts by key agencies involved in the Disability Accessible Parking Program (DAPP) to work with other program stakeholders to select the City agency best suited to lead enforcement of Americans with Disabilities Act (ADA) parking requirements, no agency was designated. The systemic gap in City enforcement of ADA standards identified during the original audit is still an issue.

At the time of the August 2016 audit, DPEP was staffed by volunteer agents, structured under HRCP, as shown in Figure 1 on the next page.
FIGURE 1: Disability Parking Organizational Structure at the Time of the 2016 Audit

In an attempt to implement the audit recommendations and ensure that accessible parking spaces in the City are maintained according to ADA regulations, several structural changes were made. At the time of the original audit, Recommendation 1.1 was directed specifically to the Agency for Human Rights and Community Partnerships (HRCP) and Denver Office of Disability Rights (DODR) because the Disability Parking Enforcement Program (DPEP) was structured under DODR and staffed by volunteer agents. Additionally, our report highlighted that other City entities played a role in this program and included the Department of Public Works and its Right-of-Way Enforcement (ROWE), the Department of Community Planning and Development (CPD), and the Department of Excise and Licenses.

As shown in Figure 2, the Disability Accessible Parking Program (DAPP), formerly known as the Disability Parking Enforcement Program (DPEP) within HRCP, is now functioning under the Department of Public Works. In the current structure, DAPP has augmented its disability parking enforcement activities by adding three full-time right-of-way enforcement agents.
To address Recommendation 1.1, both HRCP and ROWE held the recommended meetings with other disability parking stakeholders to determine which of them would be best suited to coordinate a citywide program to enforce accessible parking rules. However, follow-up work found that while these stakeholder meetings occurred throughout 2016 and 2017, they did not continue and resulted in no decision on which agency was best suited to lead accessible parking compliance efforts. During the move of DPEP from HRCP to the Department of Public Works’ ROWE, a few changes happened, including that:

- The program assumed the new name of the Denver Accessible Parking Program (DAPP);

- The budget expansion that HRCP had obtained to add three disability parking enforcement agents to augment DAPP had transferred to ROWE along with the DAPP Operations Coordinator.

Since the changes to DAPP, the agency has enhanced guidelines to better enforce misuse of accessible parking spaces in certain parking lots and streets. In addition, the Department of Public Works has held some additional meetings with HRCP, Excise and Licenses, CPD, and the City Attorney’s Office in the attempt to find which stakeholders will be able to contribute to the program by filling the ADA maintenance enforcement gap, which still remains unattended by the City.

However, several factors still exist that make it difficult for specific agencies of the City to fully implement Recommendation 1.1. First, both ROWE and DAPP have admitted that their disability parking enforcement only extends to the public right-of-way and to privately owned lots open to the public. These agencies stated that they do not have any jurisdiction to enforce ADA
requirements related to private property. Second, according to HRCP and ROWE management, the other stakeholders have not committed to participate in the disability parking enforcement because they currently do not have the resource capacity to do so. Consequently, no agency or department has been selected to identify and remediate accessible parking spaces that are not being maintained in accordance with the Americans with Disabilities Act as stated in Recommendation 1.1 and agreed to by HRCP. Finally, HRCP and DODR commented that while the City considers ADA compliance during the initial permitting process, it is the U.S. Department of Justice that has the authority to enforce ADA compliance.

**Recommendation**

1.2 **Codify responsible agency in city ordinance** – After a course of action is determined regarding how to implement Recommendation 1.1, the Agency for Human Rights and Community Partnerships should work with the City Attorney’s Office to codify in the Denver Revised Municipal Code the agency responsible and the method for ensuring that accessible parking spaces are maintained in accordance with the requirements of the Americans with Disabilities Act.

**Status: Not Implemented (August 2017)**

**Auditee Action**

Since the implementation of Recommendation 1.2 was contingent upon the implementation of Recommendation 1.1, Recommendation 1.2 has not been implemented. Specifically, Recommendation 1.1 was intended for City stakeholders to identify an agency best suited to lead the citywide efforts to improve accessible parking. Meanwhile, recommendation 1.2 states that once an agency is selected, the agency’s roles and responsibilities should be formalized in the Denver Revised Municipal Code. With no agency responsible for leading accessible parking efforts, no ordinance can be written.

**Recommendation**

1.3 **Inventory accessible parking spaces** – The Denver Office of Disability Rights should collaborate with the Right-of-Way Enforcement Division and other relevant stakeholder agencies to assemble an inventory of accessible parking spaces and locations to aid in ensuring that the City maintains compliance with requirements for accessible parking established in the Americans with Disabilities Act.

**Status: Partially Implemented (August 2018)**

**Auditee Action**

DAPP started assembling an official list of accessible parking spaces when the program was enhanced with the hiring of the three full-time employees. While patrolling their routes to enforce disability parking, parking agents have started tracking those disability spaces on an inventory list. Toward the end of our follow-up efforts though, when we received the inventory list from DAPP, we determined that the inventory list only contained parking spaces inspected by the three DAPP agents in public right-of-way areas and private parking lots open to the public. The inventory did not fully incorporate two separate other inventory lists that the Department of
Community Planning and Development and the Department of Excise and Licenses had sent to DAPP.\(^1\)

In addition, the current disability parking inventory contains inaccuracies. Specifically, during follow-up, we tested a random sample of fifteen accessible parking lots and individual spaces from DAPP’s inventory. Then, while driving around the City to test this sample, we randomly selected three disability lots and individual spaces we wanted to trace back to the inventory list. From the first sample, we found that four parking lots or individual spaces were either missing from the list or recorded inaccurately. From the second type of testing, we found that one other inaccuracy which was attributed to the fact that the DAPP agents had not yet patrolled those lots we selected, and therefore, the lots had not yet been added to the inventory list.

Although DAPP has made progress towards developing an inventory list of disability spaces, we consider this recommendation to be only partially implemented because the current list of disability parking was missing the portion of those disability parking lots recorded by Excise and Licenses and CPD.

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**Recommendation**

1.4 **Hold program volunteers accountable** - Disability Parking Enforcement Program management should hold program volunteers accountable for full compliance with all program policies, procedures, and expectations established for the volunteer role.

**Status: Implemented**

**Auditee Action**

DAPP re-evaluated volunteer expectations by revising several program policies and documents. For example, current volunteers must be residents of Denver, actively participate in the program, and attend training. Volunteers attended training on the revised program policies and expectations. Using the revised volunteer expectations, DAPP assessed the program’s revenue and individual volunteers’ performance. Some volunteers were deactivated from the program for not meeting the revised expectations of the program.

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**Recommendation**

1.5 **Expand program staff** - The Denver Office of Disability Rights should pursue its goal of expanding its staff with paid employees who will cover the enforcement gaps created by the nature of the volunteer program.

**Status: Implemented**

**Auditee Action**

DAPP has expanded its program by hiring and training three paid full-time employees on a limited basis instead of permanent. This is because the Budget and Management Office had advised that DAPP initially be considered a pilot program. Although the three employees were

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1 The Department of Community Planning and Development keeps an inventory of disability accessible parking lots when it issues building permits for inspections and plan review purposes. Likewise, the Department of Excise and Licenses keeps an inventory of accessible parking lots when it issues business licenses.
hired as limited, which means that their employment is scheduled to end in December 2019, ROWE management has expressed that their intention is to have these employees converted to permanent employment status.
Conclusion

While the collective efforts of the Agency for Human Rights and Community Partnerships (HRC P) and Right-of-Way Enforcement (ROWE) have resulted in the implementation of two recommendations made in the Disability Parking Enforcement Program Audit Report, others have yet to be acted upon or fully implemented. Auditors therefore determined that the risk associated with the audit team’s initial findings has not been fully mitigated.

As a result, the Audit Services Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken. On behalf of the citizens of the City and County of Denver, we thank staff and leadership from all citywide departments who participated in the implementation efforts of the Disability Parking Enforcement Program Audit for their cooperation during our follow-up effort and their dedicated public service.
Office of the Auditor

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