

## HB15-1370

## ACCESS TO CONFIDENTIAL COUNTY RECORDS

Fact SheetOVERVIEW:

HB15-1370 will allow professional local government auditors the ability to access certain confidential information held by county agencies that administer human and social services programs. Access to this information gives local government the ability to provide **an additional level of program oversight** and is crucial for auditors to be able to **identify areas to improve programs, ensure compliance and enhance governmental accountability.**

IMPORTANT ELEMENTS OF THE BILL:

- **Consistency**

Currently different county governments interpret access allowed by state statute in conflicting ways. In some instances outside, non-audit, consultants hired by county human and social services agencies have greater access than county auditors. With only the confidentiality clauses of their contracts to bind them, these outside consultants may pose a greater risk to confidentiality than the local government audit professionals who are already covered by their own specifically detailed professional standards and would be further covered by the terms of this revised statute.

**HB1370 will provide consistency of access across all county governments and with all audit professionals who perform work on behalf of those governmental agencies.**

- **Accountability & Transparency**

Virtually all auditing currently performed on human and social services are financial and compliance audits. Federal and State auditing operations have limited resources to conduct performance audits.

HB1370 will allow County auditors to determine if: **Programs are managed properly; Taxpayer dollars are being used correctly, and; Programs are efficient, effective and controls are in place to ensure that vulnerable populations including children and the elderly are not being put at risk.** Performance audits can provide assurance to the public that human and social programs are efficient, effective and accountable.

- **Strict Confidentiality Insured with Stiff Penalties**

Provisions in the Bill maintain strict confidentiality laws as well as both criminal and civil penalties for any unlawful release of information. Additionally, professional audit standards mandate that local government auditors maintain strict confidentiality of information collected. Auditors have no professional reason to disclose confidential information in performance of their work.

- **Demonstrated Need**

The City and County of Denver's Auditors Office has tried to conduct performance audits of Denver Human Services programs. Even with authority provided by a vote of the citizens and mandated in the City's Charter, the Auditors Office has been prevented from accessing information necessary to ensure that programs are performing as promised and expected and that risks and abuses of the system are identified and minimized.

**Please vote YES on HB15-1370**





**Testimony of Denver Auditor Dennis Gallagher on HB15-1370**

**April 24, 2015, House Public Health Care and Human Services Committee**

Our office has tried to conduct performance audits of Denver Human Services but we have been unable to do so because we were prevented from accessing necessary records by DHS. We had tried to do an audit to ensure that processes were in place to make certain that there was appropriate protection of at-risk children and adults, but the lack of access forced us to drop that audit.

We also tried to audit the DHS Gift Card program to determine if gift cards bought by the city were actually being distributed to the people they were intended for – or what internal controls were in place to insure the integrity of the program. But again we were denied access to necessary records.

It is clear that there have been serious problems related to both of these audit areas but we were prevented from helping resolve those issues through the audit function.

This bill will resolve that access issue and let not only the Denver Auditor's Office but any duly authorized professional local government auditor from providing the kind of oversight necessary to ensure compliance and enhance accountability. It is what the taxpayers expect and it is what the human services clients desperately need. Thank you for your time. I encourage you to pass this critical legislation.





## Association of Local Government Auditors

April 24, 2015

Dianne Primavera, Chair  
Public Health Care and Human Services Committee  
Colorado House of Representatives  
(Via Email)

Chair Primavera and Members of the Committee,

The Association of Local Government Auditors (ALGA) is a professional organization with more than 300 member organizations located primarily in the United States (US) and Canada. ALGA is committed to supporting independent performance auditing in local governments. ALGA believes that an independent performance auditing function, operating under applicable professional auditing standards, plays a key role in effective governance and public accountability. It provides assurance to taxpayers and elected representatives that scarce tax dollars are protected by strong management controls and practices.

We understand that the Colorado Legislature is considering House Bill 15-1370. According to the bill's summary:

The bill requires a county department of human or social services to provide an auditor who is conducting a financial or performance audit of the county department (county department audit) access to these records, including any personal identifying information necessary to achieve the purposes of the audit. The authorization applies to an auditor retained by a county or authorized pursuant to a county charter or ordinance.

As was noted by Denver's Director of Audit Services, Kip Memmott, in written testimony dated April 24, 2015 to the Committee:

Local government human service agencies work with high risk populations. When issues arise with these populations...government entities face substantive financial and public relations risks and the clients served by these programs are placed in jeopardy...Utilizing performance auditing at the local level can help those charged with governance to identify and mitigate risks before they emerge on the public domain.

Since auditors frequently handle sensitive information and ALGA supports unfettered access to information for auditors, we strongly concur with Mr. Memmott's comments and encourage the legislature to approve HB 15-1370. Should you have any questions, please contact Mr. Memmott, who serves as an ALGA Board Member, at (720) 913-5027 or [kip.memmott@denvergov.org](mailto:kip.memmott@denvergov.org). Alternatively, you may contact Jay Poole, ALGA Advocacy Chair at (757) 382-8511 or [jpoole@cityofchesapeake.net](mailto:jpoole@cityofchesapeake.net).

Respectfully

Corrie Stokes  
ALGA President

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**House Public Health Care and Human Services Committee Testimony  
Human Services Records Access (HB15-1370)  
April 24, 2015**

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**Introduction**

My name is Kip Memmott. I serve as Director of Audit Services, for the City and County of Denver, Colorado's Auditor's Office. I have a Master's degree and am a Certified Government Audit Professional, and a Certified in Risk Assurance Manager. I have 20 years of government performance audit experience in three different states at both the local and state government level and I serve on the governing board for the Association of Local Government Auditors (ALGA). I would like to note that the City and County of Denver Auditor's Office is recognized as a best practice organization on the national level and has received multiple national achievement awards for high impact performance audits. In fact, the Denver Auditor's Office was recently cited as one of eleven best practice audit functions for major cities in the U.S. and Canada by the Institute of Internal Auditors, the largest internal audit professional organization in the world.

***Value of Human Service Performance Audits at the Local Government Level***

I strongly support House Bill 15-1370 as I can personally attest to the value and importance of performance audits that review human service programs. Local government human service agencies work with high risk populations. When issues arise with these populations, as they have in recent times all too frequently in the State of Colorado, government entities face substantive financial and public relations risks and the clients served by these programs are placed in jeopardy.

Social and Human Services Departments are inherently high risk entities from an audit risk assessment perspective. In addition to being one of the larger county government functions, in terms of employees and budget, the activities of these departments impact the most vulnerable populations in Colorado. For example, the Department of Human Services in Denver administers the following programs: family and adult services, child support enforcement, child welfare services, family crisis center, child care and a series of other programs that includes services for adults and children with mental, physical, visual and developmental disabilities and providing emergency food, shelter and outreach services to homeless individuals. The City has significant inherent liability and risk related to the provision of these services.

Utilizing performance auditing at the local level can help those charged with governance to identify and mitigate risks before they emerge on the public domain. I have no doubt that performance audits could have been utilized to detect, address and where possible even potentially prevent some of the unfortunate issues, including the abuse and death of human service clients, which have occurred within

the State of Colorado in recent times. Unlike financial and compliance-oriented audits, performance audits focus primarily on program governance, accountability, transparency and outcomes. Such audits assess the effectiveness of social service programs and the use of public resources. Performance audits provide increased transparency and oversight for the State's most vulnerable populations. These audits also provide public assurance and help human service organizations innovate and continuously improve in terms of impact and efficiency.

In addition to others, performance audit objectives could include the following types of research questions:

- How does the Department of Human Services know if their programs are meeting the legislative intent of such programs e.g. improving the quality of life of vulnerable populations?
- Does the Department of Human Services have specific controls in place that are monitored to ensure vulnerable populations are in safe environments and not subject to abuse?
- Does the Department of Human Services perform cost-benefit analysis related to performance outcomes in terms of expending limited public monies i.e. does the Department adhere to sound budgeting practices?
- Does the Department of Human Services effectively interface with other City entities and local social service organizations to maximize and streamline service delivery and eliminate redundancy?
- Does the Department of Human Services have the proper staffing levels within its organization to execute its mission?
- Are staff case loads appropriate?
- How effective is the Department of Human Services' outreach to external stakeholders and advocates in terms of identifying and addressing issues and ensuring good community relations?
- Is the Department of Human Services adhering to leading edge practices compared to peer entities nationally in terms of service delivery?
- Does the Department of Human Services have a strategic plan and vision that includes sound performance measures?
- How effective is the Department of Human Services' reporting and oversight systems?
- Does the Department of Human Services provide personnel with effective guidance, training and performance evaluation to ensure they can do their jobs properly and are held accountable for their performance?
- Are the information technology systems used by the Department of Human Services effective and secure?
- Does the Department of Human Services adhere to sound recording keeping practices including properly safeguarding confidential records?
- Does the Department of Human Services have a proactive system to detect and mitigate issues and risks?



Local government audit functions are ideally positioned to perform this work. Such functions often have a better understanding of their organizations' governance structure, management systems, personnel and history than federal and state auditors. They can conduct performance audits with objectives that are unique from those pursued by federal and state auditors and they can commit additional resources to high risk areas and can regularly follow-up on prior audits and recommendations to ensure risks are mitigated. In other words, local government performance audit functions can take a more holistic, broad and consistent perspective than other types of external auditors examining social service programs.

Performance audits use advanced methodologies and reach different audiences and constituents than more traditional audits. Examples of innovative performance audit methodologies that can be utilized for human service audits include, among others: performance measurement and strategic planning, policy analysis, client case studies, risk management assessment, best practice research, trend analysis, cost-benefit analysis, staffing and workload assessments, direct observation and internal controls analysis. Primary stakeholders and audiences for performance audits are the public, elected officials and those charged with governance as opposed to federal grantor officials and internal financial managers.

Current access limitations not only hinder the ability of local government auditors to execute audits with performance objectives, but also impede their ability to pursue financial types of objectives. For example, the Denver Auditor audited a gift card program administered by our Human Services Department. These gift cards, which are supposed to be given to social service clients for groceries and clothing, are highly fungible and pose severe risks for theft and misuse. However, owing to current records access restrictions, we were unable to determine if these cards were indeed given to clients.

### ***Audit Profession Confidential Record Handling Requirements and Acumen***

Obviously, granting legal access to confidential and sensitive records should be diligently deliberated. Inherent to their job responsibilities, auditors handle and review all types of documents including, among many other examples, employee human resource records, criminal justice records, information technology and building security records, banking records, contractor proprietary information, and, in my experience in Arizona and California, human service records. The audit profession is well aware of the responsibilities and risks that present themselves when auditors are provided with this type of information. To this point, auditors are bound by professional standards and other requirements to maintain the confidentiality and integrity of sensitive documents. Specifically, Government Auditing Standards require safeguarding the records of audited entities (specific standards related to maintaining and reporting confidential and sensitive information – 8.38-8.42). These standards expressly prohibit the disclosure of confidential information protected by law. Further, in Denver, our City Code places

strict confidentiality requirements on how the Auditor's Office uses and discloses records and documents collected during the executive of a performance audit (Denver Revised Municipal Code Sec. 20-277. Books and records).

In addition to these legal and professional standard safeguards, auditors have no professional reason to disclose personal or other confidential information from such records. Performance audit findings discuss governance, trends and outcomes, rather than individuals. In instances where auditors provide specific examples to illustrate causes and effects of identified issues, such as case studies, personally identifiable information is cloaked so that there is no way for anyone to be able to identify the actual person(s) being described in the case study. Auditors are also subject to same penalties as others for disclosing legally-protected confidential records. Further, auditors receive regular training on record protocols and, in Denver our document retention systems have the highest level of security. I can personally attest that I have never been involved with or heard about a confidential document breach involving an audit function in my twenty year audit career.

I sincerely thank the Committee Chair and members for the opportunity to testify in support of HB15-1370.

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