

Audit of the Barnes Fund Final Report



A Report to the Audit Committee

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Audit of the Barnes Fund

June 27, 2019

Metropolitan
Nashville
Office of
Internal Audit

EXECUTIVE SUMMARY

June 27, 2019



Why We Did This Audit

The audit was performed because of emphasis of affordable housing policy in growing urban areas across the United States.

What We Recommend

- Define measures to monitor the Barnes Fund program objective to benefit the prosperity of the entire community.
- Create processes to ensure the Commission's monitoring and reporting policies and procedures are achieved.
- Create standards and periodically test tenant income and landlord rental rate compliance.
- Disclose the fair market value of donated real estate.

Audit of the Barnes Fund

BACKGROUND

The Metropolitan Housing Trust Fund Commission, hereafter referred to as the Commission, was created in 2013 to assist in "providing quality affordable housing." The Commission established the Barnes Fund to provide financial assistance in constructing new affordable housing units and/or rehabilitating existing ones. As of January 31, 2019, over \$27 million has been awarded to 17 non-profit groups from the Barnes Fund and over \$12 million expended since its inception.

OBJECTIVES AND SCOPE

The objectives of this audit are to determine if the Commission:

- Monitors program success and grantees to ensure objectives, as outlined in applicable grant agreements, are met.
- Processes provide assurance that Barnes Fund awards are awarded to qualified entities.
- Operational and financial results are accurate and reflect management's intent.

The scope of this audit is from July 19, 2013, Barnes Fund inception, through June 30, 2018.

WHAT WE FOUND

The Commission has developed systematic, methodical written policies and procedures, referred to hereafter as the *Housing Trust Fund Policies and Procedures*, to ensure applicants for projects meet established requirements to receive financing from the Barnes Fund. Grant drawdown requests were reviewed and monitored to ensure construction work was completed. However, the following were noted:

- The Commission is unable to demonstrate that it is operating the Barnes Fund in compliance with the *Housing Trust Fund Policies and Procedures*.
- Measures to monitor overall Barnes Fund program success have not been defined.
- Grant application process documentation was not consistently available.
- Formal controls to identify potential conflicts of interest did not exist.
- Monitoring for compliance with tenant income and landlord rental rate thresholds is not being conducted.
- Program progress and performance reports, as detailed within the *Housing Trust Fund Policies and Procedures*, are not being generated.
- Reports that are generated often contain inaccurate information.
- The fair market value of Metropolitan Nashville Government donated land is not reported.

GOVERNANCE

The seven-member Commission oversees the management and operations of the Barnes Fund. The management of the Barnes Fund is housed within the Mayor's Office. Metropolitan Nashville Code of Laws § 2.149.030 delineates the purpose of the Commission as follows:

- A. To promote the study and development of good quality affordable housing.
- B. To support education about and creation and development of good quality affordable housing, both rental and ownership.
- C. To help create rental housing, housing for the disabled, and long-term affordable homeownership opportunities for citizens of Davidson County.
- D. To oversee the management and operation of the Barnes Fund for Affordable Housing.

The *Housing Trust Fund Policies and Procedures* detail the governance requirements of the Barnes Fund operations.

Prior to 2016, the Barnes Fund operations were managed by a former Metropolitan Housing and Development Agency component unit, The Housing Fund, a private 501(c)(3) community development financial organization.

BACKGROUND

Since inception through January 31, 2019, the Commission has reported \$27.8 million in Barnes Fund awards to 17 non-profit groups; leveraging \$127 million of outside investment. Disbursements to grantees are reported at approximately \$12.4 million. The Barnes Fund has assisted in the development of a total of 175 operational affordable housing units and donated 104 land lots to subsidize the creation and preservation of 1,215 units of affordable housing within Davidson County.

The Metropolitan Nashville Government enters into contractual grant agreements to provide financial assistance with various grantees (nonprofits). Grantees agree to build a certain quantity of affordable housing units or rehabilitate existing affordable housing units. The number, type of units and income eligibility for participants are outlined in the grant agreement. Barnes funding related projects can be described in three categories; (1) rental units, (2) homebuyers units, and (3) rehabilitation projects.

Grant funding priority is given based upon location, with proximity to a major transit corridor as well as developments located within moderate to high-income areas receiving preference. Additional preference is given to rental housing units dedicated to special needs populations earning between 0-30 percent of area median income. Special needs populations are defined to include the elderly, those with disabilities, and military veterans, as well as the mentally ill, ex-convicts, drug addicts, domestic/sexual abuse-victims, homeless, and new American citizens.

Eligibility requirements for participants who will eventually occupy these units follow pre-established guidelines as follows:

- *Rental housing* developers are restricted to provide housing for households earning no more than 60 percent of the United States Housing and Urban Development area median income.
- *Homebuyers* income must be no more than 80 percent of the United States Housing and Urban Development area median income.

- *Rehabilitation* applicants must earn no more than 80 percent of the United States Housing and Urban Development area median income, and must also currently own and occupy their homes.

Exhibit A details each nonprofit award and the amount expended as of January 31, 2019.

Exhibit A – Listing of Nonprofits to Receive Barnes Funding as of January 31, 2019

Nonprofit	Funding	Expended to Date	Balance
Urban Housing Solutions	\$ 8,167,116	\$ 3,555,172	\$ 4,611,944
Woodbine	7,596,288	4,204,279	3,392,009
Affordable Housing Resource	470,000	60,000	410,000
New Level CDC	631,250	387,864	243,386
Habitat for Humanity	2,415,380	1,844,440	570,940
Dismas House	3,000,000		3,000,000
Rebuilding Together Nashville	669,664	291,896	377,768
Mary Parrish	100,000	40,163	59,837
Mending Hearts	1,162,826	484,489	678,337
Be a Helping Hand	691,052	276,142	414,910
Living Development Concepts	111,033		111,033
Project Return	271,000	271,000	
Our Place	1,084,925	989,900	95,025
Crossroads Campus	1,000,000		1,000,000
Westminster	155,000		155,000
Fifteenth Avenue Baptist CDC	69,690		69,690
The Housing Fund	250,000		250,000
Totals	\$27,845,224	\$12,405,345	\$15,439,879

Source: Barnes Fund Staff

Community Land Trust

Operating a community land trust, The Housing Fund seeks to develop and oversee affordable housing via communal ownership and stewardship of land. A community land trusts will typically acquire and maintain ownership of land permanently: typically entering into 99-year land lease agreements with prospective homebuyers. On February 22, 2018, the Commission granted \$250,000 to The Housing Fund for the creation and administration of a community land trust, with subsequent pledges to invest up to \$2 million in “first phase” funding. On June 26, 2018, the Commission voted to transfer all remaining Barnes Fund land lots, 15 in total, to the Nashville Community Land Trust managed by The Housing Fund. The Metropolitan Nashville Council approved by Resolution 2018-1570 the transfer of the 15 land lots to the Nashville Community Land Trust on February 5, 2019.

OBJECTIVE QUESTIONS AND CONCLUSIONS

1. *Does the Commission monitor the Barnes Fund overall program objectives?*

Generally no. The Commission does not currently study, measure, and disclose the costs and benefits to the entire community to demonstrate the Barnes Fund overall program success. (See Observation A.)

2. *Does the Commission monitor Barnes Fund grantee performance objectives as described in applicable grant agreements?*

Generally no. There is not a system in place to monitor grantees after construction to ensure that program objectives are being met. The Commission does not monitor grantees to ensure affordability requirements for tenant income limits and rental rates. The Commission does not conduct regular program progress, performance, and compliance evaluations. (See Observations C.)

The Commission has a methodology in place to ensure payments to grantees are for work actually completed. Payments to grantees are based on established thresholds and required supporting documentation from the grantee. A review of six projects demonstrated that these pre-established thresholds were being reviewed and met before disbursement was made. However, no contract exists between the projects grant drawdown construction inspector and the Commission. (See Observations C.)

3. *Do the Commission's processes provide assurance that Barnes Funding is awarded to the best-qualified entities?*

Generally no. The Commission has developed written policies and procedures. However, for 5 of the 10 application requirements reviewed, documentation verifying that these policies and procedures were performed was not present. Additionally, critical procedures such as ascertaining good standing, obtaining competitive selection practices, obtaining general contractor contracts and/or reviewing cost estimates from grantees were not being performed. Conflict of interest statements were also not being generated. (See Observations B and F.)

4. *Is the Commission reporting operational and financial results accurately?*

Generally no. Required operational and financial reports are not being generated in accordance with the *Housing Trust Fund Policies and Procedures*. Exhibit B shows Commission reporting discrepancies observed for 7 awards. (See Observation D.)

Exhibit B – Commission Reporting Discrepancies Observed for Seven Awards as of July 2018

Fact	Commission Report	Actual
Units completed construction	37	18
Units construction yet to be completed	178	94
Funds Leveraged	\$15,225,000	\$6,500,000

Source: Metropolitan Nashville Office of Internal Audit review of Commission data.

Public property is being donated to the Barnes Fund without the fair market value being disclosed or reported. (See Observation E.)

AUDIT OBSERVATIONS

Internal control helps entities achieve important objectives and sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control – Integrated Framework (COSO)*, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environment, mitigate risks to acceptable levels, and support sound decision making and governance of the organization. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities. See Appendix B for a description of the observation *Assessed Risk Rating*.

Observation A – Program Success Criteria

There is no written measure of program success criteria. The *Housing Trust Fund Policies and Procedures* states the Commission will oversee and administer the Barnes Fund in a way that positions it to attract investment and provide good quality affordable housing to boost the prosperity of the entire community by:

- Promoting the study and development of good quality affordable housing.
- Supporting education about and creation and development of good quality affordable housing, both rental and ownership.
- Helping create rental housing, housing for the disabled, and long-term affordable homeownership opportunities for citizens of Davidson County.
- Overseeing the management and operation of the Barnes Fund for Affordable Housing.

Past efforts to measure the impacts of affordable housing initiatives on the prosperity of the Davidson County community appear to be limited to information contained in the Office of Mayor Megan Barry, May 2017 *Housing Nashville* report. The report states:

“Because so many households are spending too much on housing, they have to cut back on other expenses and are unable to spend their hard-earned dollars elsewhere in our local economy. This amounts to a \$345M impact, annually – meaning that over \$345M would be recirculated into Nashville’s local economy if families were not experiencing housing cost-burden...”

This same report states in 2015 Nashville had an 18,000 unit deficit of affordable rental housing, and this problem is projected to increase to a 31,000 unit deficit of affordable rental housing by 2025.

Good stakeholder management is developing strategies to obtain citizens’ commitment to the success of the program and confirming it as the program continues, as well as managing citizens’ expectations. Without a firm measure of success or benchmark, it is difficult for management to demonstrate the investment in the Barnes Fund program is successful.

Criteria:

- Project Management Institute Inc., *The Standard for Program Management – Fourth Edition (2017)*, Chapter 6 “Program Governance”¹

Section 6.1.4 Program Success Criteria, states, *“Governance establishes the minimum acceptable criteria for a successful program and the methods by which those criteria will be measured,*

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communicated, and endorsed. The criteria describe the definitions of success consistent with the expectations and needs of key program stakeholders, and reinforce the program alignment to deliver the maximum attainable benefits.”

- COSO Principle 6 - The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives.

Assessed Risk Rating:

High

Recommendations for the management of the Commission to:

Determine acceptable success measures to monitor that help ensure the Barnes Fund attracts investment and provides good quality affordable housing to boost the prosperity of the entire community.

Observation B – Program Applications

Conflicts of Interest Controls

No discernable conflicts of interest controls were observed between and among parties involved in selecting and awarding grants to nonprofits (The Housing Trust Fund Commission, and the Application Review Committee) and those receiving grants (nonprofit grantees and developers). The risk is increased that a lack of conflict of interest controls could negatively impact public opinion of impartiality in grant award decisions.

Grant Application Review

The Commission grant application process documentation was not available for 5 of the 10 application requirements reviewed. The following application requirements lacked documentation of completion in the Commission’s files:

- Grantee Good Standing determination,
- Grantee project vendor competitive selection process,
- Cost and price analysis of construction cost review when the grantee is the general contractor,
- Grantee general contractor contract agreements, and
- Commission’s proposal review.

Criteria:

- *COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.*
- *The Housing Trust Fund Policies and Procedures*
- *Fraud Examiner’s Manual (pages 1.627 to 1.629) - A conflict of interest occurs when an employee or agent—someone who is authorized to act on behalf of a principal—has an undisclosed personal or economic interest in a matter that could influence his professional role.*

Assessed Risk Rating:

Medium

Recommendation for the management of the Commission to:

1. Ensure conflicts of interest forms are signed by all parties involved in the application and award process.
2. Develop procedures to ensure all grant application documents are received, retained, and the review of applicant's proposals are documented.

Observation C– Program Monitoring

The Commission's grant recipient monitoring activities could be enhanced in the following areas to ensure program objectives are archived.

Grantee Monitoring

The *Housing Trust Fund Policies and Procedures* detail day-to-day and year-to-year governance requirements of the Barnes Fund operations. Documentation of grantee monitoring was not available in these areas:

- Tenant income verification,
- Rental rate compliance,
- Fiscal health,
- Management plan,
- Affordability plan,
- Good standing with the Commission, and
- Annual reporting of project status.

Construction Inspector

No contract exists between the projects grant drawdown construction inspector and the Commission. The inspector is unpaid for work performed. Absent a contract which details work-to-be-performed in exchange for financial consideration it may be difficult to ensure that grant drawdown inspections are reliably performed at required standards.

Criteria:

- *COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.*
- *The Housing Trust Fund Policies and Procedures*

Assessed Risk Rating:

High

Recommendations for the management of the Commission to:

1. Develop a monitoring program that documents grantee requirements and program objectives such as tenant income levels, and the number of affordable housing units provided are achieved.
2. Complete agreements with construction inspectors.

Observation D – Program Reporting

The Mayor’s Office of Economic Opportunity and Empowerment does not produce and distribute regular Barnes Fund program progress and performance reports, as detailed within the *Housing Trust Fund Policies and Procedures*. Required annual reports include:

- Affordable housing units produced compared to goals stated in original funding applications,
- Actual affordability levels served compared to goals stated in original funding applications,
- Leverage achieved for each program (third-party funding),
- Annual Compliance and Performance Evaluations: The Metropolitan Housing Trust Fund Commission does not conduct annual grantee compliance and performance assessments, and
- Grantee annual notification of Good Standing status with the Commission.

Since its inception, only one report has been generated by the Barnes Fund. The accuracy of the information provided in this report needs improvement. Exhibit B on page 4 shows Commission reporting discrepancies observed for 7 awards.

Reporting also understated the amount of public subsidy awarded to grantees by neither assessing nor disclosing the value of donated real estate. (See Observation E.)

Criteria:

COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendation for the management of the Commission to:

Ensure required annual reports are generated timely and accurately.

Observation E – Land Donations

Metropolitan Nashville Government property is being donated to the Barnes Fund without the fair market value of such properties being assessed or disclosed. The Commission has donated 104 land lots to affordable housing developers; the value of which was neither appraised nor disclosed.

Without the appraisal and public disclosure of the fair market value of donated land, the public is unable to determine the costs of the Commission’s Barnes Fund operations relative to competing interests.

Criteria:

COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

Medium

Recommendation for the management of the Commission to:

Disclose the assessed value (i.e., fair market value) of all donated real estate using the assessed value from the Assessor of Property, or independent appraiser when circumstances justify the additional cost.

Observation F – Documentation Retention Policy

The Commission does not have a document retention policy for important documents such as grant applications, application review and award decisions, grant draw-down requests and approval, tenant income and landlord rental rate compliance, and so forth. The risk of critical documents not being properly retained is greatly enhanced without such a policy.

Criteria:

COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

Medium

Recommendation for the management of the Commission to:

Develop and implement a document retention policy for grant applications, Commission reviews of grant applications, and program monitoring documentation.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

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 observations and conclusions based on our audit objectives.

METHODOLOGY

To accomplish our audit objectives, we performed the following steps:

- Researched theories, practices, rules, and regulations regarding taxpayer-subsidized affordable housing development, as well as taxpayer-subsidized economic development,
- Interviewed key personnel within:
 - The Barnes Fund, and
 - Nonprofit grantees,
- Reviewed and analyzed documentation for compliance with the Tennessee Code Annotated, Metropolitan Nashville Code of Laws, and other applicable laws, regulations, and policies,
- Evaluated internal controls currently in place,
- Reviewed sample selections to determine the effectiveness of internal controls,
- Considered risks associated with information systems, and
- Considered risks of fraud, waste, and abuse.

AUDIT TEAM

Ted Ciuba, MBA, CFE Auditor-in-Charge

Bill Walker, CPA, CIA, CFE, Quality Assurance

Qian Yuan, CIA, CISA, CMFO, Quality Assurance

Mark Swann, CPA, CIA, CISA, ACDA, CMFO, Former Metropolitan Auditor

Gina Pruitt, CPA, CITP, CISA, CHFP, CQA, CEMB, CGMA, CRISC, CCSFP, CHCO, Interim Metropolitan Auditor

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



DAVID BRILEY
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June 14, 2019

Gina Pruitt
Interim Metropolitan Auditor
Office of Internal Audit
Audit: Barnes Fund Office of the Mayor

This letter acknowledges the receipt of the April 12, 2019 audit of the Barnes Fund in the Office of the Mayor. The Barnes Fund, its commissioner and staff, appreciate the attention to detail from the Audit Department. A first audit is essential to identifying ways to strengthen our process and partnerships.

As you can see in the response matrix, we have already put corrective practices in place to address a number of the deficiencies. Each finding will be remedied by the commission and staff. As a result, we will be a stronger program for providing affordable housing in Nashville.

Thank you for bringing these important matters to our attention.

Sincerely,

Handwritten signature of Hannah R. Davis in black ink.

Hannah Davis
Barnes Fund Director

Handwritten signature of Kaki Friskics-Warren in black ink.

Kaki Friskics-Warren
Barnes Commission Chair

APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

We believe that operational management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Risk	Recommendation	Concurrence and Action Plan	Proposed Completion Date
<i>Recommendations for management of the Commission to:</i>			
H	A.1 - Determine acceptable success measures to monitor that help ensure the Barnes Fund attracts investment and provides good quality affordable housing to boost the prosperity of the entire community.	<p>Accept – Since the Barnes Fund was launched in 2013, the program has gone through a number of transitions. It was housed at The Housing Fund for 3 years before it moved to the Mayor’s Office under the Barry administration. The abrupt end of the Barry administration brought about personnel changes that interrupted the Barnes management. The program has been under Mayor Briley’s administration for 14 months and his leadership has established a firm foundation for the commission and staff to steward the fund. The program is now under solid management, implementing reporting and monitoring best practices in order to insure the best use of the public funds.</p> <p>Acceptable success measures will be discussed and determined through the strategic planning process the Metro Housing Trust Fund Commission is conducting throughout Q3 2019. The success measures will be outlined in the policies and procedures document that will be available on the Housing Trust Fund website.</p>	09/01/2019
M	B.1 - Ensure conflicts of interest forms are signed by all parties involved in the application and award process.	Accept – All review committee members and commission members have signed COI forms for 2019. This will be standard operating procedure going forward. In the past, all reviewers and commissioners were cleared of conflicts of interest but there was no documentation for this informal process.	05/01/2019
M	B.2 - Develop procedures to ensure all grant application documents are received, retained, and the review of applicants’ proposals are documented.	Accept – Moving forward, the grant application documents will be received, retained, and reviewed in a manner that aligns with the procedures that will be published in the fall.	06/01/2019

APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

Risk	Recommendation	Concurrence and Action Plan	Proposed Completion Date
H	C.1 - Develop a monitoring program that documents grantee requirements and program objectives such as tenant income levels, and the number of affordable housing units provided are achieved.	Accept – Grant agreements going forward have updated language to create additional reporting and monitoring of income levels and final outcomes.	06/30/2019
H	C.2 - Complete agreements with construction inspectors.	Accept – The agreement is in place and being currently operated within.	04/15/2019
H	D.1 - Ensure required annual reports are generated timely and accurately.	Accept – The Affordable Housing Program manager will deliver this annual report to the Commission and council in addition to making it publicly available.	07/15/2019
M	E.1 - Disclose the assessed value (i.e., fair market value) of all donated real estate using the assessed value from the Assessor of Property, or independent appraiser when circumstances justify the additional cost.	Accept – The Affordable Housing Program manager will make the assessed value of donated property available in the resolution passed by council.	07/15/2019
M	F.1 - Develop and implement a document retention policy for grant applications, Commission reviews of grant applications, and program monitoring documentation.	Accept - New document storage has been incorporated based on industry standards. Applicants will need to share confirmation of a competitive bidding process. Applicants will complete ongoing program progress reports and are subject to random audit of compliance.	07/31/2019

APPENDIX B – ASSESSED RISK RANKING

Observations identified during the course of the audit are assigned a risk rating, as outlined in the table below. The risk rating is based on the financial, operational, compliance or reputational impact the issue identified has on the Metropolitan Nashville Government. Items deemed “Low Risk” will be considered “Emerging Issues” in the final report and do not require a management response and corrective action plan.

Rating	Financial	Internal Controls	Compliance	Public
HIGH	Large financial impact >\$25,000 Remiss in responsibilities of being a custodian of the public trust	Missing, or inadequate key internal controls	Noncompliance with applicable Federal, state, and local laws, or Metro Nashville Government policies	High probability for negative public trust perception
MEDIUM	Moderate financial impact \$25,000 to \$10,000	Partial controls Not adequate to identify noncompliance or misappropriation timely	Inconsistent compliance with Federal, state, and local laws, or Metro Nashville Government policies	Potential for negative public trust perception
LOW/ Emerging Issues	Low financial impact <\$10,000	Internal controls in place but not consistently efficient or effective Implementing / enhancing controls could prevent future problems	Generally complies with Federal, state, and local laws, or Metro Nashville Government policies, but some minor discrepancies exist	Low probability for negative public trust perception
Efficiency Opportunity	An efficiency opportunity is where controls are functioning as intended; however, a modification would make the process more efficient			