LETTER REPORT: RESPONSES TO SPECIFIC QUESTIONS REGARDING PEACEHOLICS CONTRACTS, LOANS, GRANTS, AND SUB-GRANTS BY DISTRICT AGENCIES

December 19, 2011

Audit Team:
Henry Tucker, Financial Auditor

Yolanda Branche, District of Columbia Auditor
The Honorable Yvette Alexander  
Councilmember, Ward 7, Council of the District of Columbia  
1350 Pennsylvania Avenue, NW, Ste. 400  
Washington, D.C. 20004  

**Letter Report:** Responses to Specific Questions Regarding Peaceoholics Contracts, Loans, Grants, Sub-grants by District Agencies.

Dear Councilmember Alexander:

Pursuant to your August 19, 2010, request and in accordance with Section 455 of Pub. L. No. 93-198, the District of Columbia Auditor (Auditor) conducted an examination of the Peaceoholics organization. On August 17, 2011, the Auditor issued a report titled “Audit of Funding Agreements Including Contracts, Loans, Grants, and Sub-grants Issued By the District of Columbia to Peaceoholics, Inc. From Fiscal Year (FY) 2006 to FY 2010.”

On October 3, 2011, the Committee on Human Services of the Council of the District of Columbia held a public roundtable on the August 17, 2011, audit report. This letter is in response to questions presented in an email dated October 6, 2011, from your office regarding the October 3, 2011, public roundtable.

---

1 See section 455 (b) of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198, 87 Stat. 803); D.C. Code §1-204.55 (b) (2001) which states: “The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he [she] may prescribe.” See also, section 455 (c) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973, (87 Stat. 803, D.C. Code §1-204.55 (c) (2001) which states: “The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit.”
RESULTS OF THE AUDITOR’S EXAMINATION

GENERAL

QUESTION 1: WHAT ISSUES DID THE AUDITOR’S OFFICE STAFF EXPERIENCE IN TERMS OF GATHERING INFORMATION FROM THE ORGANIZATION? ANY MISSING DOCUMENTS? ANY DELAYS IN PROVIDING?

AUDITOR’S RESPONSE: The Auditor sent an audit notification letter to Peaceoholics on March 10, 2011, stating that the Office of the D.C. Auditor (ODCA) planned to conduct site visits on March 16, 2011, and requested access to and copies of the following documents during the site visit:

- Annual Audited Financial Statements;
- Deposit and expenditure documents of all bank accounts from which contract, grant, and loan funds received from District of Columbia agencies and instrumentalities were deposited and/or disbursed;
- All consultant, vendor and/or professional services contracts/agreements let by, or on behalf of, Peaceoholics and/or any related entity(ies) that were paid for in whole or in part with funds received during the audit period from District of Columbia agencies and instrumentalities;
- Detailed budgets (proposed and actual/revised) for each contract, grant or loan received during the audit period from District of Columbia agencies and instrumentalities;
- Contact information on the individual responsible for developing the budget and overseeing the spending of the contract, grant or loan funds to which that budget relates;
- Access to and copies of all purchase orders, receipts, bank statements, deposit documentation and cancelled checks (front & back);
- Access to and copies of program evaluations relating to each contract, grant or loan received during the audit period;
- Access to and copies of all Program Statements (scope of work) relating to each contract, grant or loan received during the audit period; this item should include a listing of all the employees and consultants hired and paid with funds received during the audit period from District of Columbia agencies and instrumentalities; and
- Access to and copies of all reports identifying those individuals and/or groups that benefitted from the services Peaceoholics, Inc. provided pursuant to each contract, grant or loan received during the audit period.
Despite the Auditor’s request for Peaceoholics to make available the documents on March 16, 2011, Peaceoholics did not provide the required documents on that date. According to Peaceoholics, the documents were not provided on March 16, 2011, because the bookkeeper for Peaceoholics was out of the office.

Peaceoholics stated on March 16, 2011, that the requested documents would be delivered to ODCA by the end of March. Peaceoholics began delivering documentation to ODCA on March 28, 2011. However, on March 15, 2011, ODCA issued a subpoena to obtain bank statements and copies of canceled checks from banks that handled Peaceoholic’s accounts. ODCA received the subpoenaed bank statements and copies of cancelled checks between April 19, 2011, and April 28, 2011.

**QUESTION 2: WHAT KIND OF INTERNAL CONTROLS SHOULD BE EXPECTED OF AN ORGANIZATION THAT RECEIVES $13 MILLION IN PUBLIC FUNDING, IRRESPECTIVE OF FUNDING AGREEMENTS?**

We found that Peaceoholics did not have adequate internal controls or a financial accounting system that met the standards of fund control and accountability. For example, Peaceoholics should have established a financial accounting system that provided:

1. Accurate, current and complete disclosure of the financial results of each sponsored project and program;
2. Records that adequately identified the source and application of funds for sponsored activities;
3. Effective control over and accountability for all funds, property, and other assets;
4. Comparison of outlays with budgeted amounts for each award;
5. Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the terms and conditions of their awards; and
6. Accounting records that were supported by source documentation.

We found that the financial system maintained by Peaceoholics did not record all financial data relating to District funds. As a result, the Auditor’s ability to accurately and completely determine whether Peaceoholics used District funds in accordance with the terms of contracts and agreements was significantly impaired.

The audit report included a recommendation that Peaceoholics should establish adequate internal controls to ensure accurate recording of all financial activity pertaining to grants from District agencies and the Children and Youth Investment Trust Corporation.
QUESTION 3: AT WHAT POINT – AFTER HOW MANY OFFENSES, VIOLATIONS AND SHORTCOMINGS – SHOULD AN ORGANIZATION BE PREVENTED FROM RECEIVING ADDITIONAL PUBLIC FUNDS?

Regarding this matter, the Office of the D.C. Auditor reviewed the District of Columbia Code, District of Columbia Municipal Regulations and the Office of Partnerships and Grant Services City Wide Grants Manual and Sourcebook. We found no provisions that prevented a District grant recipient that failed to comply with grant agreement terms, from receiving additional grant awards.

SCOPE OF THE AUDIT


AUDITOR’S RESPONSE: The audit of the Peaceoholics organization was conducted in accordance with generally accepted government auditing standards. Section 7.07 of the Government Auditing Standards states:

“Auditors must plan the audit to reduce audit risk to an appropriate level for the auditors to provide reasonable assurance that the evidence is sufficient and appropriate to support the auditor’s findings and conclusions. This determination is a matter of professional judgment. In planning the audit, auditors should assess significance and audit risk and apply these assessments in defining the audit objectives and the scope and methodology to address those objectives. Therefore, auditors may need to adjust the audit objectives, scope, and methodology as work is being completed.”

The Office of the D.C. Auditor complied with the requirements of Section 7.07 and exercised professional judgment regarding the selection of the audit scope of Fiscal Year (FY) 2006 to FY 2010.

QUESTION 5: DID YOUR AUDIT ALSO COLLECT INFORMATION REGARDING THE ORGANIZATION OUTSIDE THE AUDIT PERIOD?

AUDITOR’S RESPONSE: The Auditor did not collect information regarding Peaceoholics beyond the scope of the audit, Fiscal Year (FY) 2006 to FY 2010.
QUESTION 6: WHAT KIND OF INFORMATION WAS COLLECTED?

AUDITOR’S RESPONSE: The Auditor did not collect information regarding Peaceoholics beyond the scope of the audit, Fiscal Year (FY) 2006 to FY 2010.

MR. MOTEN AS OFFICER

QUESTION 7: THE AUDIT FOUND THAT THE ARTICLES OF INCORPORATION LISTED MR. MOTEN AS DIRECTOR AND SAID HE HELD A LEADERSHIP POSITION SINCE ITS INCEPTION. THE REPORT GOES ON TO NOTE THAT WHEN PEACEOHOLICS WAS FORMED, MR. MOTEN WAS DESIGNATED AS AN OFFICER. HOWEVER, EVEN THOUGH THE 501 (c)(3) APPLICATION PEACEOHOLICS SUBMITTED TO THE INTERNAL REVENUE SERVICE (IRS) DID NOT IDENTIFY MR. MOTEN AS A PEACEOHOLICS LEADER OR OFFICIAL, HE NONETHELESS EXECUTED CONTRACTS, GRANTS, AND SUB-GRANT AGREEMENTS BINDING THE ORGANIZATION. WHAT ARE THE LEGAL IMPLICATIONS AND RAMIFICATIONS OF THIS?

AUDITOR’S RESPONSE: The Office of the D.C. Auditor (ODCA) referred this matter to the Office of the D.C. Attorney General for an opinion of the legal implications and ramifications of the fact that the 501 (c) (3) application Peaceoholics submitted to the Internal Revenue Service did not identify Mr. Moten as a Peaceoholics leader. The Office of the D.C. Attorney General suggested that the Office of the D.C. Auditor should contact the General Counsel of the Council of the District of Columbia for advice on this matter. The Office of the D.C. Auditor followed this recommendation. ODCA will provide your office with a copy of the response from the General Counsel of the Council.
FEDERAL TAX FILINGS

QUESTION 8:

PEACEOHOLICS DID NOT FILE THE FORM 990, WHICH IS REQUIRED FOR TAX-EXEMPT ORGANIZATIONS, FOR CALENDAR YEARS 2008, 2009, AND 2010. WHAT ARE THE LEGAL IMPLICATIONS AND RAMIFICATIONS OF THIS?

AUDITOR'S RESPONSE: The Office of the D.C. Auditor (ODCA) referred this matter to the D.C. Attorney General for an opinion of the legal implications and ramifications of the failure of Peaceoholics to file the Form 990 which is required for tax-exempt organizations. The Office of the D.C. Attorney General suggested that the Office of the D.C. Auditor should contact the General Counsel of the Council of the District of Columbia for advice on this matter. The Office of the D.C. Auditor followed this recommendation. ODCA will provide your office with a copy of the response from the General Counsel of the Council.

DC CORPORATE MAINTENANCE OBLIGATIONS

QUESTION 9:

DCRA REVOKED THE CORPORATE CHARTER FOR PEACEOHOLICS ON SEPTEMBER 13, 2010, FOR FAILURE TO FILE THE BIENNIAL REPORT. AS A RESULT, PEACEOHOLICS SHOULD NOT HAVE CONDUCTED ANY BUSINESS WITH THE DISTRICT UNTIL THE CORPORATE CHARTER WAS REINSTATED. THEY DID CONDUCT BUSINESS DESPITE THE REVOKED CHARTER. TO YOUR KNOWLEDGE, WHAT ARE THE APPROPRIATE PENALTIES FOR CONDUCTING BUSINESS WITH A REVOKED CHARTER?

AUDITOR'S RESPONSE: Peaceoholics did not file the biennial report required by the Department of Consumer and Regulatory Affairs (DCRA) to maintain its corporate charter. Peaceoholics was required to file the biennial report by January 15, 2010. According to DCRA officials, DCRA revoked the corporate charter for Peaceoholics on September 13, 2010, for failure to file the biennial report. According to D.C. Code, Title 29, Section 301.87:

"The penalty for exercising any powers under articles of incorporation of a domestic corporation which has been revoked is that they shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment not exceeding 1 year, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2."
Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

According to DCRA officials, the penalties listed in D.C. Code, Title 29, Section 301.87 were not invoked because once Peaceoholics received the certificate of reinstatement of the corporate charter, all civil fines, penalties and fees were considered null by DCRA.

QUESTION 10:

IN ITS RESPONSE TO THE DRAFT AUDIT REPORT, THE ORGANIZATION STATED THAT “WHILE PEACEOHOLICS ACCEPTS FULL RESPONSIBILITY FOR THE OVERSIGHT, WE AGREE WITH THE RECOMMENDATION OF THE AUDIT THAT IT WOULD BE EXTREMELY HELPFUL IF DCRA NOTIFY MEMBERS WHEN THEY ARE DELINQUENT.” TO MY UNDERSTANDING, DCRA SENDS OUT LETTERS TO ORGANIZATIONS. DID YOUR AUDIT LOCATE A LETTER SENT TO PEACEOHOLICS FROM DCRA?

AUDITOR’S RESPONSE: According to the Department of Consumer and Regulatory Affairs (DCRA), while an entity’s corporate charter is still active, DCRA notifies entities of pending biennial report due dates and the revocation of a corporate charter for failure to file the report. DCRA officials also stated that, it is the responsibility of the entity to file the biennial report, by the due date, to ensure their corporate status is not revoked. During the course of the audit of the Peaceoholics organization, the Office of the D.C. Auditor did not locate a letter from DCRA to Peaceoholics regarding the failure to file biennial reports and the revocation of the corporate charter of Peaceoholics.

QUESTION 11: DID YOUR OFFICE FIND THAT DCRA FAILED TO NOTIFY PEACEOHOLICS OF THEIR DELINQUENT STATS?

AUDITOR’S RESPONSE: According to the Department of Consumer and Regulatory Affairs (DCRA), while an entity’s corporate charter is still active, DCRA notifies entities of pending biennial report due dates and the revocation of a corporate charter for failure to file the report. However, DCRA did not provide the Office of the D.C. Auditor with a copy of the DCRA notification to Peaceoholics revoking the corporate charter.
QUESTION 12:

I ALSO UNDERSTAND THAT TO GET REINSTATED, AN ORGANIZATION MUST FILE THE MISSING BIENNIAL REPORT, PAY AND [sic] FEES (GENERALLY FEES AND PENALTIES ARE $400-500), AND FILE AN APPLICATION FOR REINSTATEMENT. THE PROCESS INVOLVES FILING OF TWO PIECES OF PAPER. THE ORGANIZATION DID NOT DO SUCH UNTIL AUGUST 8, 2011 - FILLED OUT THE FORMS, FILED 2 YEAR REPORT, PAID FEES AND PENALTIES. TO YOUR KNOWLEDGE, HOW LONG DOES IT USUALLY TAKE FOR ORGANIZATIONS TO COME BACK INTO COMPLIANCE?

AUDITOR’S RESPONSE: Peaceoholics did not file the biennial report required by the Department of Consumer and Regulatory Affairs (DCRA) to maintain its corporate charter. Peaceoholics was required to file the biennial report by January 15, 2010. According to DCRA officials, DCRA revoked the corporate charter for Peaceoholics on September 13, 2010, for failure to file the biennial report.

According to D.C. Code, Title 29, Section 101.99, District corporations, partnerships, or limited liability companies must register through the Corporations Division of DCRA. According to the DCRA website, for-profit and non-profit corporations, partnerships, and limited liability companies must also maintain good standing status. To maintain good standing status within the District of Columbia, corporations must file required reports every 2 years and pay all applicable fees to the Corporations Division of DCRA.

According to DCRA, reinstatement fees after the revocation of a corporate charter are:

- Filing a 2-year report of domestic or foreign corporation flat fee - $82.50;
- Filing a 2-year report of domestic or foreign corporation after deadline - $44; and
- Filing an application for reinstatement of a domestic or foreign corporation and issuing a certificate of reinstatement - $77.

Regarding the matter of the amount of time that it usually takes for organizations to come back into compliance, DCRA officials stated: “Once reinstatement is filed the organization is back in compliance in the corporate area upon the issuance of the certificate of reinstatement.” DCRA officials also stated that the certificate of reinstatement is issued “right away,” if the applicant files an application for reinstatement in person, otherwise if filed by mail the turnaround time can be between 2-4 weeks.
COMMINGLING OF FUNDS

QUESTION 13:

DMPED, DHCD, AND JGA EACH PROVIDED FUNDS TO PEACEOHOLICS PURSUANT TO WRITTEN FUNDING AGREEMENTS THAT PROHIBITED THE COMMINGLING OF FUNDS. WERE ANY PENALTIES ESTABLISHED IN THE AGREEMENTS?

AUDITOR'S RESPONSE: We found that Peaceoholics commingled funds in violation of funding agreements. The Deputy Mayor for Planning and Economic Development (DMPED), the District of Columbia Department of Housing and Community Development (DHCD), and the District’s Justice Grants Administration (JGA) each provided funds to Peaceoholics pursuant to written funding agreements that prohibited the commingling of funds.

- The DMPED grant agreement with Peaceoholics states: “The Grantee shall establish a separate account independent of other account records of Grantee for funds received under this Grant.”

- The Conditional Commitment between Peaceoholics and DHCD states: “Any funds provided to Borrower, or required for escrow by third parties on behalf of the Borrower for carrying out activities under the Loan Agreement shall be placed in a separate interest bearing account at a financial institution acceptable to the Lender...”

- The Sub-Grant Award agreement between JGA and Peaceoholics states: “The sub-grantee shall provide documentation satisfactory to JGA, that the sub-grantee has taken steps to ensure that the sub-grantee’s funds are not commingled with funds from other District or Federal agencies. Each award must be accounted for separately.”

The DMPED and JGA funding agreements with Peaceoholics included the following penalties for commingling funds:

- Section VIII Performance Evaluation/Monitoring subsection D Default of the DMPED grant agreement states: “Material failure by the grantee and its agents and any party directly or indirectly assisted with grant funds to comply fully with the terms, conditions and covenants of this Agreement or any other Agreements executed as part of, related to or as a direct consequence of this Agreement, as such material failure is determined in the sole and reasonable discretion of the District shall constitute a default hereunder. If a default is not cured or remedied according to a time limit established by the District in its sole and reasonable discretion, but in no event less than 10 business days, such default shall result in the termination and suspension of any further disbursement of any...
remaining assistance as described in Section C above and automatic reversion to the District of any remaining Grant funds in the possession of the Grantee hereunder, and the utilization by the District of any and all legal and equitable remedies available to the District. The District may deem default by the Grantee to bar any further funding to the Grantee unless the Grantee provides to the satisfaction of the District, in its sole and reasonable discretion, sufficient justification and excuse for such default and submits evidence sufficient, in the sole and reasonable discretions of the District, that the Grantee has taken and used best efforts to avoid any future defaults.”

- Section IX of the Sub-Grant Award agreement between JGA and Peaceoholics states: “Corrective Action and Termination” subsection A states: “In the event the programmatic or financial conditions of the grant are not met in a timely fashion, the following progressive actions will be taken:

1. The sub-grantee will be notified by JGA, in writing, of its concerns and associated concrete recommendations of improvement will be identified. The sub-grantee is required to respond to all recommendations with a written plan for improvement with associated timelines and/or provide all outstanding documentation.

2. If the sub-grantee fails to make sufficient progress or meet required timelines, the sub-grantee will be notified that they are being placed on corrective action status and will be given 30 days to make sufficient progress towards addressing all recommendations for improvement.

3. If the sub-grantee is not able to satisfy these required conditions by the end of the specified timeframe, funding will be terminated.”

- The Conditional Commitment between Peaceoholics and DHCD did not include provisions or a clause stipulating measures or corrective actions that would take place in the event Peaceoholics did not comply with the commingling of funds terms.

As stated in the audit report: “Preventing the commingling of funds and establishing a reliable accounting system would have ensured that Peaceoholics properly recorded, managed, and maintained transactions (deposits, disbursements, transfers, and withdrawals). Without adherence to this important internal control element, there was no credible audit trail to accurately verify that all funds were expended for intended purposes...Despite the significant contribution that Peaceoholics made to the District of Columbia, we found that grant funding entities did not provide Peaceoholics with the necessary monitoring and support that the organization needed.”
QUESTION 14: ARE THERE ANY OTHER SOURCES OF PENALTIES?

AUDITOR'S RESPONSE: While we found that Peaceoholics commingled funds in violation of grant funding agreements, we are not aware of other sources of penalties.

QUESTION 15: HAVE ANY BEEN ASSESSED?

AUDITOR'S RESPONSE: While we found that Peaceoholics commingled funds in violation of grant funding agreements, we are not aware of other sources of penalties or whether penalties were assessed.

POLITICAL ACTIVITIES

QUESTION 16: DID YOUR OFFICE FORMALLY REFER THOSE MATTERS TO THE BOEE?

QUESTION 17: HOW SHOULD SUCH A REQUEST OCCUR?

AUDITOR'S RESPONSE: A letter dated August 19, 2010, from Councilmember Alexander to the D.C. Auditor stated: “I am particularly interested in determining the following issues:… "What role the Peaceoholics is currently playing in the present [2010] mayoral election…”

In the audit report issued August 17, 2011, the Auditor determined that questions regarding Mr. Moten’s role in the 2010 mayoral election and Peaceoholics engagement in political activities are best addressed by the District of Columbia Board of Elections and Ethics (BOEE).

In light of the significant passage of time between Councilmember Alexander’s August 19, 2010, letter to the Auditor that included a request for a response by September 3, 2010, and the August 17, 2011 issuance of the audit report, the Office of the D.C. Auditor defers to the Office of Councilmember Alexander for a determination of whether this is a matter that Councilmember Alexander wants to present to BOEE.

QUESTION 18: WILL YOU PROVIDE ALL INFORMATION YOUR OFFICE OBTAINED TO THE BOEE?

QUESTION 19: WHAT KIND OF INFORMATION DID YOUR OFFICE OBTAIN RELATED TO THESE QUESTIONS?

AUDITOR'S RESPONSE: The Office of the D.C. Auditor would not have any objections to sharing information with the District of Columbia Board of Elections and Ethics (BOEE) in support of a BOEE investigation. However, since ODCA determined that questions regarding Mr. Moten’s role in the 2010 mayoral election and Peaceoholics engagement in political
activities are best addressed by the District of Columbia Board of Elections and Ethics, the Office of the D.C. Auditor did not obtain information regarding Peaceoholics engagement in political activities.

AUDITOR TRANSITION

QUESTION 20:

IT SEEMS THAT THE PRELIMINARY INDICATIONS OF WHAT THE AUDIT WOULD DISCUSS WERE DIFFERENT THAN THE REPORTED FINAL RESULTS, SUGGESTING A BIT OF A SHIFT DUE TO THE TRANSITION BETWEEN AUDITORS. IN WHAT WAYS DID THE AUDITOR’S OFFICE APPROACH TO THIS AUDIT SHIFT AS A RESULT OF THE CHANGE IN AUDITORS?

AUDITOR’S RESPONSE: To ensure that the final audit report was clear and accurate, on July 14, 2011, the District of Columbia Auditor submitted the report, in draft form, for review and comment to the Founder of Peaceoholics, the Director of the Department of Human Services (DHS), the Interim Director of the Department of Youth Rehabilitation Services (DYRS), the Interim Director of the Justice Grants Administration (JGA), the Chief of the Metropolitan Police Department (MPD), the Acting Director of the Department of Housing and Community Development (DHCD), the Deputy Mayor for Planning and Economic Development (DMPED), the President and CEO of the Children and Youth Investment Trust Corporation (CYITC), and the Chancellor of the District of Columbia Public Schools (DCPS). The Auditor received written comments from Peaceoholics, MPD, CYITC and DYRS on August 4, 2011. DYRS provided written comments on August 5, 2011.

Where appropriate, the Auditor made revisions to the final report based on comments from Peaceoholics, MPD, CYITC and DYRS to the draft report. Differences between the draft report and the final report are the result of revisions recommended by Peaceoholics, MPD, CYITC, and DYRS rather than a change in the administration of the Office of the D.C. Auditor.

I trust that this letter report addresses your questions. Please contact me if you require additional information.

Sincerely,

Yolanda Branche
District of Columbia Auditor