



## **Review of the Fraud Prevention Fund**

January 9, 2015

**Report Team:**

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A Report by the Office of the District of Columbia Auditor  
Kathleen Patterson, District of Columbia Auditor

Mr. Rashad M. Young  
City Administrator  
Office of the City Administrator  
1350 Pennsylvania Avenue, NW, Suite 521  
Washington, DC 20004

### **Letter Report: Audit of the Fraud Prevention Fund**

Dear Mr. Young:

The Office of the District of Columbia Auditor (ODCA) initiated a review of the Fraud Prevention Fund to assess compliance with the requirements of “Telephone Fraud Amendment Act of 2000” (the Act).<sup>1</sup>

To protect citizens from telephone fraud, the Council of the District of Columbia (Council) enacted the “Telephone Fraud Amendment Act of 2000.”<sup>2</sup> Specifically, the Act (1) imposes numerous statutory requirements and standards on telephone solicitors; (2) details unlawful, deceptive and abusive telemarketing acts and practices; and (3) lists the civil and criminal penalties that may be imposed on telephone solicitors who violate provisions of the Act. Additionally, the Act establishes the Fraud Prevention Fund (the Fund) to be comprised of fines imposed on telephone solicitors who engage in activities prohibited under the Act.

The Act provides that the Fund shall be a non-lapsing fund. The Fund may not be comingled with the General Fund of the District. It may be used to educate the public regarding fraud prevention, support the work of the Task Force to Combat Fraud (which is established by the Act) and enforce the provisions of the Act.

The Act provides that the Mayor shall form a Task Force to: (1) collect information on telephone fraud; (2) educate the public about fraud, including telephone fraud; (3) share information related to telephone fraud with District government agencies; (4) share information related to telephone fraud with other state and federal law enforcement agencies; and (5) advise the Mayor on enforcement of the Telephone Fraud Act.<sup>3</sup>

The Task Force may include representatives from the following agencies: Metropolitan Police Department, Department of Consumer and Regulatory Affairs, Office of the Corporation Counsel (now the Office of the Attorney General for the District of Columbia), and any other agency deemed appropriate by the Mayor.

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<sup>1</sup> D.C. Official Code §22-3226.14 (2014) requires that “The District of Columbia Auditor shall perform an annual audit of the Fraud Prevention Fund.”

<sup>2</sup> The “Telephone Fraud Amendment Act of 2000” is contained in a larger omnibus bill called the “Seniors Protection Amendment Act of 2000,” effective June 8, 2001, D.C. Law 13-301, 47 DCR 7039.

<sup>3</sup> D.C. Official Code §22-3226.13 (2014).

To complete our review of the Fund, we sent inquires to the Office of the City Administrator (OCA), the Office of the Chief Financial Officer (OCFO), and the Office of the Attorney General for the District of Columbia (OAG).

We found that while the Task Force was formed in May 2013, the Fraud Prevention Fund has not yet been created in the District's financial management system. This letter outlines the results of our review in detail.

## **Results of the Auditor's Review**

### **1. The Fraud Prevention Fund has not been created.**

While the Act establishes the Fraud Prevention Fund,<sup>4</sup> such a fund has not been created within the District's Financial Management system. In other words, there is currently no mechanism to receive monies comprised of fines imposed on telephone solicitors who engage in activities prohibited under the Act or expend monies to educate the public regarding fraud prevention, support the work of the Task Force to Combat Fraud (which is established by the Act) and enforce the provisions of the Act.

As part of our review, we asked the Office of the City Administrator (OCA) and the Office of the Chief Financial Officer (OCFO) to provide information regarding whether the Fund had been established and both indicated that the Fund does not exist.

District law establishes the Fund but does not specify the District Agency or authority responsible for creating or administering it. We asked OCA why the Fund was not established and were told that Council failed to create an appropriation for the Fund; therefore, it was not established. However, the enabling legislation that established the Fund provides that it will be comprised of fines imposed as a result of the Act. Therefore, an appropriation is unnecessary to establish the Fund.

### **2. The Office of the Mayor established the Task Force to Combat Fraud but additional efforts are necessary for the Task Force to fully achieve its mission and function.**

District law requires that the Mayor form a Task Force to Combat Fraud.<sup>5</sup> On May 17, 2013, the Mayor established the Task Force to Combat Fraud (Task Force)<sup>6</sup> and appointed three members from the following agencies: the Office of the Attorney General for the District of Columbia (OAG), the Department of Consumer and Regulatory Affairs (DCRA), and the Metropolitan Police Department (MPD).<sup>7</sup> The Chairperson of the Task Force is from the OAG.

When the Mayor established the Task Force to Combat Fraud, it was given the following two functions:

1. The Task Force shall collect information related to telephone fraud within the District and share this information with District government agencies, other state

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<sup>4</sup> D.C. Official Code §22-3226.14 (2014).

<sup>5</sup> D.C. Official Code §22-3226.13 (2014).

<sup>6</sup> Mayor's Order 2013-096

<sup>7</sup> Mayor's Order 2013-097

law enforcement agencies, and federal law enforcement agencies as necessary to prevent telephone fraud.

2. The Task Force may investigate, as necessary, the applicability and feasibility of implementing the Telephone Fraud Amendment Act of 2000 (D.C. Code §22-3226.01 *et. seq.*), and use monies from the Fraud Prevention Fund for the purpose of educating the public regarding fraud and crime prevention, including telephone fraud.

Bennett Rushkoff, the Chairperson of the Task Force, provided evidence of the Task Force's activities, including the collection and sharing of information on telephone fraud with District agencies and notifying the public of telephone fraud scams through the Department of Consumer and Regulatory Affairs website. In order to fully meet the mission, described in the Act and the Mayor's Order, the Task Force would need to expand its efforts beyond these actions.

## Next Steps

The “Telephone Fraud Amendment Act of 2000” was enacted by the Council of the District of Columbia in 2000 to protect District residents from telecommunication fraud. According to the Task Force Chairperson, in the years since this legislation has passed, the District has experienced a decrease in the type of telecommunication fraud this Act was enacted to prevent and an increase in other types of consumer fraud.

Interviews with current Task Force Members and the U.S. Attorney’s Office for the District of Columbia suggest that the District’s Consumer Protection Procedures Act<sup>8</sup> and the federal Telemarketing and Consumer Fraud and Abuse Prevention Act<sup>9</sup> are being used to protect residents against the fraudulent activity and cyber-crimes in the District of Columbia.

Given the views of Task Force Members and the U.S. Attorney’s Office, the Mayor and Council should review the Telephone Fraud Amendment Act of 2000 to assess the need for the Fraud Prevention Fund and the provisions of the Act and its relevance to the current types of telephone fraud committed in the District. If policymakers determine that the Act is necessary, we recommend the following:

Specifically,

1. The Mayor should designate an Agency responsible for establishing an account for the Fraud Prevention Fund; and
2. The Task Force should take additional steps to ensure the full implementation of its mission and function under the Act and Mayor’s Order.

Sincerely,



Kathleen Patterson  
District of Columbia Auditor

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<sup>8</sup> D.C. Official Code §§ 28-3901 -- 3913 (2014).

<sup>9</sup> 15 U.S.C. §§ 6101 – 6108 (2014).