


FROM	NAME & TITLE	Joshua Thomson, Chief of Staff <i>John A</i>	CITY OF BALTIMORE MEMO <i>130-131</i>	
	AGENCY NAME & ADDRESS	Office of Councilman Zeke Cohen's RM 522, City Hall		
	SUBJECT	Government/Charitable Solicitation Application		

TO To Honorable Clerk of the Board
of Board of Estimates
Room 204, City Hall

DATE: 08/19/2020

Re: Government/Charitable Solicitation Application

ACTION REQUESTED OF THE BOARD OF ESTIMATES:

The Board is requested to endorse a Governmental/Charitable Application for submission to the Board of Ethics of Baltimore City to allow Councilmember Zeke Cohen and staff to solicit donations and raise around \$2.4M in funds to help close the Digital Divide in Baltimore. These funds would be used to purchase the equipment and digital devices needed by Baltimore's youth and their families to have access to a reliable internet connection. The period of the campaign, pending board approval, will be effective upon Board approval to August 31, 2021.

AMOUNT AND SOURCE OF MONEY:

No general funds are involved in this transaction.

BACKGROUND AND EXPLANATION:

Donations will be solicited from Baltimore businesses, civic leaders, the foundation community and the general population. A potential donor list will be comprised of individuals and corporate entities that contribute to the economic, social, and cultural vitality of Baltimore City. Most of the individual and corporate entities fitting that description are not controlled donors. However, those potential donors who are controlled donors with respect to the City Council or the Board of Estimates will not be targeted or singled out in any way and will be solicited, if at all, in the same manner as the other potential donors.

The Digital Divide is a national crisis. In Baltimore, 96,000 households do not have access to a wireline broadband service at home and 75,000 households do not have access to a computer or laptop. In an American Community Survey, Baltimore ranked 29th out of 32 cities for lack of wireline broadband and computer access. For Black and Brown communities, the lack of internet access or to a device will perpetuate the immense gap in educational opportunity and financial security. This will only deepen the deep and systemic inequities that exist for our communities of color. The COVID-19 pandemic has exacerbated the Digital Divide in Baltimore. Baltimore City Public Schools will begin classes online for the upcoming school year. It is essential that all students and staff members are equipped with the devices and reliable internet access needed to adequately provide them with the resources needed to succeed.


We are seeking to close this digital divide by raising \$2.4M to provide a reliable internet source and devices for all households in Baltimore City. Funding will be allocated to offset internet costs and devices.

Baltimore City Code Article 8, Section 6-26, prohibits solicitation or facilitating the solicitation of a gift. An exception was enacted in 2005 to permit certain solicitations that are for the benefit of an official governmental program or activity, or a City endorsed charitable function or activity. Ethics Regulation 96.26B sets out the standards for approval, which includes the requirement that the program, function or activity to be benefited and the proposed solicitation campaign must be endorsed by the Board of Estimates or its designee.

MBE/MWE PARTICIPATION:

N/A

APPROVED BY BOARD OF ESTIMATES:



CLERK

AUG 26 2020

DATE

BALTIMORE CITY ETHICS BOARD
626 City Hall
Baltimore, Maryland 21202
Phone: 410-396-4730 Fax: 410-396-8483
<http://ethics.baltimorecity.gov>

**GOVERNMENTAL/CHARITABLE SOLICITATIONS –
APPLICATION FOR APPROVAL**

DIRECTIONS AND GENERAL INFORMATION

NOTE: *Bold-italicized terms* are defined at the end of these Directions.

I. BACKGROUND

Article 8, § 6-26 {"Gifts: Solicitation prohibited"} generally prohibits any *public servant* from soliciting or facilitating the solicitation of a *gift*, "whether on the *public servant's* own behalf or on behalf of another *person*," from any *person* that the *public servant* "knows or has reason to know" is a *controlled donor*. Article 8, § 6-27 {"Gifts: Acceptance prohibited"} further prohibits any *public servant* from accepting a *gift*, even if unsolicited, from any *person* that the *public servant* "knows or has reason to know" is a *controlled donor*.

These prohibitions have long been recognized to apply even if the "gift" is being solicited to support a governmental function or charitable endeavor. An exception was enacted in 2005 to permit certain solicitations that are "for the benefit of an official governmental program or activity or a City-endorsed charitable function or activity" and have been pre-approved by the Ethics Board.

More recently, the Ethics Board adopted Regulation 06.26 to standardize and clarify the requirements and procedures for invoking this exception. (The full text of the Regulation is appended to City Code Article 8, accessible online through the Ethics Board's website: <http://ethics.baltimorecity.gov>.)

II. GENERAL STANDARDS FOR APPROVAL

Ethics Regulation 96.26B sets out the following general standards for Ethics Board approval:

1. The solicitation must be for the exclusive benefit of a governmental or charitable function, program, or activity.
2. **The program, function, or activity to be benefitted and the proposed solicitation campaign must have been endorsed by the Board of Estimates or its designee(s).**
3. The solicitation must be directed at a broad range of potential donors and may not specially target *controlled donors*.
4. The campaign must be designed and conducted so as to avoid any suggestion that contributors might receive special access or favored treatment from any City *agency* or any *public servant*.

5. The solicitation must be approved in advance by the Ethics Board, on written request of the *sponsoring agency*.
6. The solicitation must be conducted in accordance with the terms and conditions of the Ethics Board's approval.

II. WHEN AND WHERE TO APPLY

An application for Ethics Board approval must be submitted to the Ethics Board at least 45 days before any *controlled donor* is solicited, directly or indirectly.

III. ACTIVITY REPORTS AND RECORDS

The *sponsoring agency* must periodically report solicitation activities to the Ethics Board, as follows:

1. A Final, Cumulative Report must be filed within 30 days after all solicitations have been made and anticipated donations received.
2. Interim Reports must be filed on the following schedule, depending on the aggregate value of donations sought by the campaign:
 - (i) for campaigns seeking \$50,000 or more in donations, once every 3 months;
 - (ii) for campaigns seeking between \$5,000 and \$50,000, once every 6 months; and
 - (iii) for campaigns seeking less than \$5,000, only the Final Report is required.

The *sponsoring agency* must make and maintain detailed records to assure complete reporting of all of the information required to be disclosed in the Reports. (See Form 627.)

IV. FORMS AND INFORMATION

Additional forms and instructions for the application and activity reports are available on the Board's Website, <http://ethics.baltimorecity.gov>.

Any questions about the scope or applicability of the City Ethics Code should be directed to the Board, at 626 City Hall (410-396-4730).

DEFINITIONS OF TERMS

All defined terms are indicated by *bold italics*.

“Agency”/ “City agency”.

(a) *General*.

“Agency” or “City agency” means any department, board, commission, council, authority, committee, office, or other unit of City government.

(b) *Inclusions*.

“Agency” or “City agency” includes:

- (1) Baltimore City Parking Authority.
- (2) Baltimore Development Corporation.
- (3) Baltimore Police Department.
- (4) Board of Liquor License Commissioners for Baltimore City.
- (5) Civilian Review Board of Baltimore City.
- (6) Enoch Pratt Free Library of Baltimore City.
- (7) Housing Authority of Baltimore City.
- (8) Local Development Council, South Baltimore Video Lottery Terminal.
- (9) Pimlico Community Development Authority.
- (10) Any individual not embraced in a unit of City government who exercises authority comparable to that of the head of a unit of City government.

“Controlled donor”.

“Controlled donor” means any *person* that:

- (1) does or seeks to do business of any kind, regardless of amount:
 - (i) with an *agency*; or

- (ii) with another *person* in connection with or in furtherance of that other *person’s* contract with an *agency*;

- (2) engages in an activity that is regulated or controlled by an *agency*;
- (3) is a lobbyist with respect to matters within the jurisdiction of an *agency*;
- (4) has a financial interest that might be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of an *agency*; or
- (5) is an owner, partner, officer, director, trustee, employee, or agent of any person described in items (1) through (4).

“Gift”.

“Gift” means the transfer of any thing or any service of economic value, regardless of the form, for less than adequate, identifiable, and lawful consideration. “Gift” does not include political contributions that are regulated under state law.

“Person”.

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, or other entity of any kind;
- (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (4) except as used in Subtitle 9 {“Enforcement”} of this article for the imposition of criminal penalties, a governmental entity or an instrumentality or unit of a governmental entity.

“Public servant”.

“Public servant” means any official or employee of the City of Baltimore or of any *agency* of the City.

“Sponsoring agency”.

“Sponsoring agency” means:

- (1) the City *agency* that, under Ethics Code § 6-26(b) and Board Regulation R 06.26, seeks to conduct a solicitation for an official governmental program or activity or for a charitable function or activity; or
- (2) if more than one City *agency* is involved, the *agency* designated to coordinate the solicitation.

BALTIMORE CITY ETHICS BOARD
626 City Hall
Baltimore, Maryland 21202
Phone: 410-396-4730 Fax: 410-396-8483
<http://ethics.baltimorecity.gov>

**GOVERNMENTAL/CHARITABLE SOLICITATIONS –
APPLICATION FOR APPROVAL**

NAME OF BENEFITTED PROGRAM / CHARITY: Closing the Digital Divide

PART A. SPONSORING AGENCY

Name Office of Councilmember Zeke Cohen
Address 100 Holliday St
Baltimore, MD 21202
Contact Person / Coordinator Joshua Thomson
Telephone (410) 396-4821 Email joshua.thomson@baltimorecity.gov

PART B. PURPOSE OF PROPOSED SOLICITATION

I. Identify the specific governmental or charitable program, function, or activity for which solicitations will be made:

Closing the Digital Divide

II. Describe the specific purposes to which contributions and other receipts will be applied:

Contributions will be used to provide reliable internet sources and digital devices for all
households of students and/or educators in Baltimore City.

III. Select the appropriate range for the aggregate value of the contributions sought:

- \$500,000 or more
- between \$150,000 and \$500,000
- between \$50,000 and \$150,000
- between \$5,000 and \$50,000
- less than \$5,000

PART C. CITY ENDORSEMENT

By: ___ Board of Estimates ___ Designee of B/E: _____

Date and Manner of Endorsement: _____

Attach Copy of Written Endorsement

PART D. WHEN AND HOW SOLICITATION TO BE CONDUCTED

I. Proposed starting date of solicitation efforts: Immediately upon approval

II. Proposed ending date of solicitation efforts: August 31, 2021

III. Describe the categories of persons to be solicited and by whom and how those solicitations will be made:

This campaign will target individuals, organizations, and businesses with a history of involvement in providing a variety of resources that promote educational equity and social justice in Baltimore City. They will be contacted through individuals, groups, emails, calls, internet and social media (e.g. Twitter, Facebook, Instagram, videos, etc.). We would like to expand our target to other businesses that contribute to strengthening positive relationships among the many communities in our city.

IV. Identify all *public servants* who will be soliciting contributions:

Councilmember Zeke Cohen and staff

V. Describe measures to be taken to ensure that the solicitation (i) will be directed at a broad range of donors and (ii) will not specially target *controlled donors*:

Potential donors will be solicited based on their history of participating in activities related to this specific campaign or have contributed to or have interests in similar causes to impact positive change for Baltimore's youth. Those potential donors who are controlled donors will not be targeted or singled out in any way and will be solicited, if at all, in the same manner as other potential donors.

VI. Describe measures to be taken to avoid any suggestion that contributors might receive special access or favored treatment from any agency or public servant of the City:

The funds will be distributed by the organization Fund for Educational Excellence. Our office will have no part in determining who will receive these funds. The purpose of these funds will be made clear to those donating and donors will be informed that they will not gain favors or special access by supporting this initiative as donors have no agency over choosing the recipients of these funds.

PART E. PERSON RESPONSIBLE FOR CUSTODY, ACCOUNTING, AND DISTRIBUTION OF DONATIONS

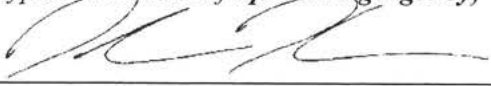
Name Baltimore Civic Fund
Address 7 E Redwood St - 9th Floor
Baltimore, MD 21202
Telephone (410)396-1395

PART F. SIGNATURE AND AFFIRMATION

I affirm under the penalties of perjury that the contents of this Application and of all accompanying attachments are true to the best of my knowledge, information, and belief.

Date: 08/19/2020

FOR: Office of Councilmember Zeke Cohen
{Type/Print Name of Sponsoring Agency}

BY: 
{Signature}

Joshua Thomson, Chief of Staff
{Type/Print Name and Title}

100 Holliday St, Baltimore, MD 21202
{Type/Print Office Address}

410-396-4821
{Type/Print Office Telephone Number}

joshua.thomson@baltimorecity.gov
{Type/Print Email Address}

1. Your application lists both the Fund for Educational Excellence and the Baltimore Civic Fund as donation distributors. Please clarify the entity or entities that will be responsible for accounting and distributing the solicited funds and, if multiple entities are involved, the relationship between them.

The funds will be held and distributed by the Fund for Educational Excellence.

2. Please disclose the person or persons within the distributing entity or entities who will be responsible for fund distribution and accounting.

All cash disbursements are ultimately approved by Fund for Educational Excellence (Fund) CEO, Roger Schulman. Prior to his approval, disbursements are reviewed by three members of the Finance team including Charles Adkins who serves as the organization's CFO.

3. Please describe how the funds will be held pending distribution, e.g., held in a trust or other dedicated account, in a general account, co-mingled with other funds, etc.

Funds will be held in the M&T Bank general operating accounting for Fund for Educational Excellence. Cash is not segregated by bank account, but is segregable via our accounting system.

4. What measures will be taken by the distributing entity or entities to ensure that the donations will actually be used for the intended purpose?

The Fund has adopted and implemented ASC Topic 958 and its subsequent update ASU 2016-14 issued by the Financial Accounting Standards Board (FASB) as a part of adopting and complying with Generally Accepted Accounting Principles. This topic stipulates that Not-for-Profit entities must identify and separate funds with a donor-imposed restriction or stipulation in terms of time or project. Donations to this specific fund would fall into the category of a donor-imposed restriction by project. Further, the Fund maintains identifiable balances for each unique program held at the fund and is audited on a yearly basis. This standard and its implementation are audited on an annual basis by an independent, licensed CPA firm.

To comply with ASCH 958, the Fund has set up its accounting system to identify and track all contributions and expenses on a project basis. The projects identified are aligned with donor-imposed restrictions and fund balances are maintained on a per project basis. All expenses processed by the Fund reviewed internally by three separate personnel to determine allocation to the appropriate projects and to determine the allowability of expenses. In the case of granting funds to projects and organizations, the Fund maintains a grant-making process that requires projects to adhere to the intent of the project they apply to and to provide substantive documentation in the form of financial and narrative reports to ensure delivery of services that adhere to the donor-imposed restriction.

5. What measures are in place to account for the donations? In the event that donations exceed the charitable need, please state how the additional funds will be allocated or dispersed.

Contributions and the related materials received with funds are reviewed, allocated and recorded on an ongoing basis. Documentation is reviewed for time and project restrictions imposed by the donor in order to determine the allocation to the appropriate project. In the event that the donor's intent is unclear, the donor is contacted for clarification. Donations received for projects are netted against the allowable expenses for each project and the remaining balance is added to a temporarily restricted net asset account held for the donor-imposed restriction on the Fund's balance sheet until the restrictions are met.

If donations exceed charitable need, the donor is contacted to determine if they would like to redirect their funds to another purpose of their choosing or to have unspent funds returned . This is completed as the projects are identified as ending and are processed by the First In First Out method.

6. Please provide additional details about the measures that will be taken by either the Baltimore Civic Fund, the Fund for Educational Excellence, or both, to ensure that controlled donors will not receive preferential treatment.

Due to the purpose of the funds being raised, there will be a limited number of vendors. Prior to cash disbursement, each vendor relationship will be reviewed by FFEE in order to identify any potential conflicts with donations received into the fund. In addition, if any funds are distributed to City Schools for reimbursement, FFEE will require City Schools to provide source material for the reimbursement and will subject those vendors to the same review.

Ann Coy
LEE Public Policy Fellow
She, Her, Hers
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1st District, Baltimore City Council
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<http://www.healingcitybaltimore.com/>