



TO: Board of Estimates, Office of Comptroller

FROM: AGC4301 - Mayoralty

DATE: 09/24/2024

Submission #: SB-24-13447

SUBJECT: Governmental/Charitable Gift Solicitation Waiver for SMBA&D
Business Resource and Development Program

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve a Governmental Charitable Solicitation Application.

PERIOD OF CONTRACT/AGREEMENT: 10/01/2024 to 10/01/0027

AMOUNT AND SOURCE OF FUNDS:

Transaction Amount: \$ 0.00

Project Fund	Amount
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BACKGROUND/EXPLANATION:

The Small and Minority Business Advocacy & Development (SMBA&D) is seeking approval of an application to allow Charitable Solicitations to a fund that will support the growth and development of small and minority businesses. The purpose of this submission is to request permission to solicit contributions to create a fund that would support the growth and development of small and minority businesses.

Donations will be solicited from a broad range of businesses and the solicitation documents will contain a disclaimer to make it clear that contributors will not receive special access or favored treatment. Donations and fiscal controls will be managed by the Baltimore Civic Fund.

COUNCIL DISTRICT: Citywide

EMPLOY BALTIMORE:	LIVING WAGE:	LOCAL HIRING:	PREVAILING WAGE:
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N/A	N/A	N/A	N/A
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1% FOR PUBLIC ART: N/A.

ENDORSEMENTS:

N. Amato

Clerk, Board of Estimates

09-18-2024



BALTIMORE CITY ETHICS BOARD
100 N. Holliday Street, Suite 635 / Baltimore, MD 21202
ethics@baltimorecity.gov / 410-396-7986

**GOVERNMENTAL/CHARITABLE GIFT SOLICITATION WAIVER –
APPLICATION FOR APPROVAL
DIRECTIONS AND GENERAL INFORMATION**

Note: *Bold-italicized terms* are defined at the end of these directions.

I. BACKGROUND

Section 6-26 {"Gifts: Solicitation prohibited"} of the Baltimore City Public Ethics Law, contained in Article 8 of the City Code, 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*.

Section 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. For this reason, City *public servants* should avoid broad solicitation efforts, such as fundraising, which could reach *controlled donors*.

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 06.26.1 to standardize and clarify the requirements and procedures for invoking this exception. (The full text of the Regulation is available on the Ethics Board's website: <https://ethics.baltimorecity.gov/gift-solicitation-waivers>.)

II. GENERAL STANDARDS FOR APPROVAL

Ethics Board Regulation 06.26.1(B) provides 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.

III. WHEN AND WHERE TO APPLY

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

IV. ACTIVITY REPORTS AND RECORDS

The *sponsoring agency* must periodically report solicitation activities to the Ethics Board, in a form consistent with generally accepted standards in the practice of accounting¹, 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, Cumulative 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. Activity reports must be signed as accurate by the *sponsoring agency* and *fiscal sponsor*. (See Form 627.)

V. FORMS AND INFORMATION

Additional forms and instructions for the application and activity reports are available on the Board's website at <https://ethics.baltimorecity.gov/gift-solicitation-waivers>.

Any questions about the waiver application and/or reporting process should be directed to Ethics Board staff at ethics@baltimorecity.gov or 410-396-7986.

¹ You may review the Governmental Accounting Standards on the Governmental Accounting Standards Board's website, accessible here: <https://gars.gasb.org/>. For free access, choose "Basic View."

DEFINITION 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 Children and Youth Fund;
 - (2) Baltimore City Parking Authority;
 - (3) Baltimore Development Corporation;
 - (4) Baltimore Police Department;
 - (5) Enoch Pratt Free Library of Baltimore City;
 - (6) Housing Authority of Baltimore City;
 - (7) Local Development Council, South Baltimore Video Lottery Terminal;
 - (8) Pimlico Community Development Authority;
 - (9) South Baltimore Gateway Community Impact District Management Authority; and
 - (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).

“Fiscal Sponsor”

“Fiscal sponsor” means the person who is responsible for the custody, accounting, and distribution of donations. The fiscal sponsor may not be an individual employed by the sponsoring agency.

“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 receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (3) a partnership, firm, association, corporation, or other entity of any kind;
- (4) except as used in the City Code, Article 8, Subtitle 9, 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 the City Code, Article 8, § 6-26(b) and R 06.26.1, 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.

PART C. WHEN AND HOW SOLICITATION TO BE CONDUCTED.

I. Proposed starting date of solicitation efforts: 10/1/2024

II. Proposed ending date of solicitation efforts: 10/1/2027

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

We will solicit financial institutions, constructions firms, tech firms, law firms, non-profits, and educational institutions. Team members of SMBA&D will solicit these companies. We will solicit these organizations by reaching out to all companies using the same solicitation format whether it is in person, phone or email. The solicitation will include a statement that no contributor will receive favorable treatment.

IV. Identify all *public servants* and other individuals at the request of the *sponsoring agency* who will solicit contributions.

Myra Blanchard, Stephen Campbell, Vanessa Freund, Chris Lundy, Reggie Mack, Elroy Byam, Charlyn Nater, Paul Taylor, Brittny Gartrell.

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*.

We will work to develop a process for soliciting organizations, this process will include a consistent message in the solicitation, and making requests to all organizations.

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.

We will include a statement that no contributor will receive favorable treatment on all solicitation documents.

PART D. FISCAL SPONSOR (PERSON RESPONSIBLE FOR CUSTODY, ACCOUNTING, AND DISTRIBUTION OF DONATIONS)

NOTE: The *fiscal sponsor* may not be an individual employed by the *sponsoring agency*.

Entity Name: Civic Fund

Contact Person: Christina Gatto

Address: 1 north charles street suite 1600 Baltimore, MD 21201

Phone: 443-278-9487

Email: christina@baltimorecivicfund.org

I. Disclose the person or persons within the distributing entity who will be responsible for fund distribution and accounting.

We will be using the Civic Fund, an organization that assists city organizations in collecting and distributing donations that are used by City agencies for key initiatives.

II. Describe how the funds will be held pending distributions, e.g., held in a trust or other dedicated account, in a general account, co-mingled with other funds, etc.

The funds will be held in an account by the Civic Fund.

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

The Civic Fund has a form that gets filled out in order to receive funds, the form gets reviewed on multiple levels before it is approved for the funds to be distributed.

IV. 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.

The Civic Fund inputs donations into the financial system with supporting documentation uploaded with the deposit.

The online donation platform that the Civic Fund uses notifies you each time there is a donation. We will also keep an excel or Smartsheet to track donations. All funds will be used to support small and minority businesses.

V. Please provide details about the measures that will be taken by the distributing entity to ensure to ensure that *controlled donors* will not receive preferential treatment.

A disclaimer will be present on the solicitation packet stating that a contribution does not warrant any favoritism or special treatment.

Additionally, all disbursements need authorization by the Civic Fund program's authorized signatory and sufficient supporting documentation.

PART E. SIGNATURE AND AFFIRMATION .

Part E should be completed by the *sponsoring agency* upon completion of the application.

I, Vanessa Freund [Name], on behalf of SMBA&D

[Sponsoring Agency], affirm under the penalties of perjury that the contents of this application and all accompanying attachments are accurate to the best of my knowledge, information, and belief.

Freund, Vanessa (Mayor's Office) Digitally signed by Freund, Vanessa (Mayor's Office)
Date: 2024.08.26 15:40:15 -04'00'

8/26/24

Signature

Date

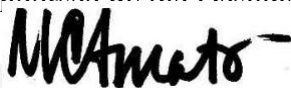
PART F. CITY ENDORSEMENT [ONLY TO BE COMPLETED BY BOE OR DESIGNEE].

Part F should only be completed by the Board of Estimates or its designee(s).

Endorsed by the Board of Estimates

Endorsed by the Designee of the Board of Estimates:

09-18-2024



Clerk Signature

Date