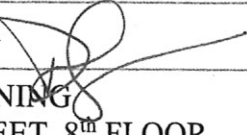



PC

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO 71-72	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 th FLOOR		
	SUBJECT	Governmental/Charitable Solicitation Application: Comprehensive Bag Ban Solicitation Phase 2		

DATE: January 27, 2021

TO Honorable President and Members of the Board of Estimates
of the Board of Estimates
City Hall, Room 204

ACTION REQUESTED OF THE BOARD OF ESTIMATES:

The Department of Planning (DoP) respectfully requests the Board endorse a Governmental/Charitable Application for submission to the Board of Ethics of Baltimore City to allow the Office of Sustainability to continue to solicit donations from individuals, organizations, businesses, and foundations who have an interest in reducing plastic waste in the City to support implementation of the Comprehensive Bag reduction bill. On March 12, 2020, the Board approved an application that is effective through February 28, 2021. The period of this Phase 2 solicitation will be effective upon Board approval to December 31, 2021.

AMOUNT AND SOURCE OF FUNDS:

No General Funds are involved in this transaction.

BACKGROUND/EXPLANATION:

On January 13, 2020, Mayor Young signed Council Bill #19-401, the Comprehensive Bag Reduction bill. The bill bans the use of plastic checkout bags and imposes a fee on any other checkout bags that are given out by retailers. In addition, Section 4 of the bill requires that the Baltimore City Department of Health and the Baltimore Office of Sustainability lead an outreach and education campaign to all affected retailers and their customers informing them of the new ordinance. As part of this campaign, the agencies are committed to supplying as many no-cost reusable bags as possible to low income households, to make the impact of this waste reduction bill more equitable. The agencies expect to work with multiple city agencies and outside partners to ensure that the campaign successfully educates retailers on their responsibilities, increases the use of reusable bags, and decreases plastic waste. On January 6, 2021, Mayor Scott postponed implementation of the bill until July 8, 2021 (or later).

To achieve this goal, donations (monetary or in-kind) will be solicited to support the education and outreach campaign required by the bill. Specifically, donations of reusable bags and/or materials to make reusable bags, programming, special events, and various other support and services will be solicited. A potential donor list will be comprised of individuals, corporate entities, faith-based institutions and other non-profit organizations, and foundations 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 manner as the other potential donors.

Baltimore City Code Article 8, Section 6-26, prohibits solicitation or facilitating the solicitation of a gift. An exemption was enacted in 2005 to permit certain solicitations that are for the benefit of an official government program or activity, or a City-endorsed charitable function or activity. Ethics Regulation 96.26B sets out the standards for approval, which include 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.

APPROVED BY THE BOARD OF ESTIMATES:



Clerk

FEB 03 2021

Date



BALTIMORE CITY ETHICS BOARD

635 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202
(410) 396-7986
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 635 City Hall (410-396-7986).

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

635 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202
(410) 396-7986
ethics@baltimorecity.gov

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

NAME OF BENEFITTED PROGRAM / CHARITY: Comprehensive Bag Reduction Outreach Campaign Phase 2

PART A. SPONSORING AGENCY

Name Department of Planning/Office of Sustainability

Address 417 E Fayette, 8th Floor, Baltimore 21202

Contact Person / Coordinator Lisa McNeilly

Telephone 410-396-8360

Email lisa.mcneilly@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:

The solicitations will be to request monetary or in-kind donations to support implementation of
the Comprehensive Bag reduction bill. With the postponement of the implementation date for the bill,
a second phase of solicitations is being planned. The first solicitation is set to expire on 2/28/2021.

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

Contributions will be used to support the education and outreach campaign required by the bill.
Specifically, donations of reusable bags and/or materials to make reusable bags, funds to produce reusable bags,
programming, special events, and various other support and services will be solicited.

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: x Board of Estimates Designee of B/E: _____

Date and Manner of Endorsement: PENDING BOE APPROVAL _____

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: 12/31/2021 _____

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, businesses, and foundations who have an
interest in reducing plastic waste in the City. They will be contacted by staff through emails, calls,
internet/website, and social media. Donations may be monetary or in-kind, but there will be no direct
exchange of funds. All payments would go directly to the Baltimore Civic Fund on behalf of the Office
of Sustainability.

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

Lisa McNeilly: Department of Planning/Office of Sustainability
Chris Ryer, Laurie Feinberg: Department of Planning

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*:

The majority of the solicitations will target a broad audience, based on their history of participating in waste-related or other Office of Sustainability activities. However, those potential donors who are controlled with respect to the City agency listed above 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*:

Donors will be made aware that their donation will be directed towards reducing plastic waste. The focus of all solicitation requests and promotion of the program will be on the potential benefits of waste reduction to the City at large (rather than to the benefit of any agencies). The purpose of funds will be made clear, and donors will be informed that they will not gain favorable treatment or access with their donation.

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

Note: This individual may not be employed by the *Sponsoring Agency*.

Name Baltimore Civic Fund

Address One North Charles St. Suite 1600 Baltimore, MD 21201

Telephone (443)-540-6113

Email info@baltimorecivicfund.org

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

HyeSook Chung, President of the Baltimore Civic Fund (BCF), will be accountable for following BCF procedures for fund distribution and accounting.

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 the "Department of Planning: Sustainability Plan (#245)" account pending distribution.

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

BCF follows their established "Policies and Procedures Governing Solicitation, Receipt, and Use of Funds by Baltimore City Government."

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.

As a fiscal sponsor, the Civic Fund provides financial management and administrative infrastructure for city agencies to help build and sustain priority programs. BCF follows their established "Policies and Procedures Governing Solicitation, Receipt, and Use of Funds by Baltimore City Government."
The Office of Sustainability will use all funds for the intended purpose.

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.


BCF follows their established "Policies and Procedures Governing Solicitation, Receipt, and Use of Funds by Baltimore City Government."

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: 01/28/21

FOR: Department of Planning
{Type/Print Name of Sponsoring Agency}

BY: 
{Signature}

Chris Ryer, Director
{Type/Print Name of Sponsoring Agency}

417 East Fayette Street, 8th Floor

{Type/Print Office Address}

410-396-7526

{Type/Print Office Telephone Number}

{Type/Print Email Address}

APPROVED BY THE BOARD OF ETHICS

Clerk

Date