



TO: Board of Estimates, Office of Comptroller
 FROM: AGC4301 - Mayoralty : AGC4356 - M-R Art and Culture
 DATE: 07/15/2024
 Submission #: SB-24-12355
 SUBJECT: Solicitation Waiver Request the Mayor's Office of LGBTQ Affairs

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve a Governmental/Charitable Solicitation Application with the Mayor's Office of LGBTQ Affairs.

PERIOD OF CONTRACT/AGREEMENT:

AMOUNT AND SOURCE OF FUNDS:

Transaction Amount: \$ 0.00

| | |
|--------------|--------|
| Project Fund | Amount |
|--------------|--------|

BACKGROUND/EXPLANATION:

The Mayor's Office of LGBTQ Affairs is requesting the Board to approve the solicitation application waiver. This is a crucial step towards the significant improvement of civic engagement and community outreach to Baltimore's disproportionately marginalized residents. In conjunction with the Baltimore Civic Fund as the fiscal sponsor, they will provide financial oversight and reporting on all funds acquired by the LGBTQ's office solicitation efforts. Donations will be intended to support the office's operational and administrative costs, community/public events, acquisition of professional services, and other LGBTQ-related projects.

COUNCIL DISTRICT: Citywide

| | | | |
|--------------------------|---------------------|----------------------|-------------------------|
| EMPLOY BALTIMORE: | LIVING WAGE: | LOCAL HIRING: | PREVAILING WAGE: |
|--------------------------|---------------------|----------------------|-------------------------|

| | | | |
|-----|-----|-----|-----|
| N/A | N/A | N/A | N/A |
|-----|-----|-----|-----|

1% FOR PUBLIC ART: N/A.

ENDORSEMENTS:

NCAmato
Clerk, Board of Estimates

07-10-2024



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.



BALTIMORE CITY ETHICS BOARD
 635 City Hall, Baltimore, Maryland 21202
 Phone: 410-396-7986
 Email: ethics@baltimorecity.gov

Date Received: _____

GOVERNMENTAL/CHARITABLE GIFT SOLICITATION WAIVER – APPLICATION FOR APPROVAL

Name of Benefitted Program/Charity:

Mayor's Office of LGBTQ Affairs

PART A. SPONSORING AGENCY.

Agency Name: LGBTQ Affairs

Contact Person/Coordinator: Alexis Blackmon

Address: 100 Holliday St, Baltimore, MD, 21202

Phone: (443) 571-7913

Email: Alexis.blackmon@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.

Mayor's Office of LGBTQ Affairs.

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

General such as campaign general operational costs include materials, utilities, and administrative fees. Staffing regarding managers, field organizers, communications director, and administrative support staff among the positions with salaries and wages associated with the campaign taxes on payroll, benefits, and other costs associated with employees. Events organizing and hosting campaign events, such as rallies, town hall meetings, fundraisers. Venue rental fees, catering, audiovisual equipment, and decorations. Travel and accommodation expenses for speakers, guests, and campaign staff. Equity and economic improvement within the LGBTQ Community. emergency cash assistance. first month and security deposit

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. WHEN AND HOW SOLICITATION TO BE CONDUCTED.

I. Proposed starting date of solicitation efforts: May 5th, 2024

II. Proposed ending date of solicitation efforts: May 5th, 2025

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

Federal and state level government, through grants and/or fundraising through foundations.

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

The Mayor's Office of LGBTQ Affairs/ Civic Fund will be the individuals at the request of the sponsoring agency who will solicit contributions.

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*.

Segmentation: Based on a range of factors, including demographics, interests, and past donations, divide the donor database into several sections. This makes it possible to communicate with particular groups in a targeted manner without singling out restricted contributions. Generalized Messaging: Instead of focusing on single people or groups, create inclusive and wide-ranging solicitation messages that highlight the organization's overall effect and mission.

Diversified Channels: To reach a varied audience, use a range of communication channels, including phone calls, social media, email, direct mail, and events. This guarantees a broader reach and avoids an excessive dependence on any one channel.

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.

Campaign finance transparency: Put in place stringent rules requiring contributions to campaigns to be disclosed. This involves promptly disclosing any contributions that political parties or candidates have received. Make this data easily accessible to the general public by using internet databases or other methods. Restrictions on Political Contributions: Put restrictions on the maximum amount of money that people or organizations may donate to political campaigns. This precludes a single donor from having an excessive amount of influence over an elected official or candidate. Outlawing Pay-to-Play Activities: Make laws or rules that forbid exchanging political donations for certain contracts or favors.

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: Baltimore Civic Fund

Contact Person: Philip Smith

Address: 1 N. Charles Street, Suite 1600, Baltimore, MD 21201

Phone: 443-469-1415

Email: phil@baltimorecivicfund.org

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

The Baltimore Civic Fund's Chief Operations Officer is responsible for fund distribution and accounting, supported by the Civic Fund finance team and an outside CPA firm. The Civic Fund maintains a web-based accounting system which is accessible by the President, the COO, the finance team, and the CPA firm. The Partnership Managers are able to view the information, but not make edits. The Civic Fund's Partnership Managers are responsible for reviewing and approving all disbursements and providing reports and other information about program account use.

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 Baltimore Civic Fund monitors incoming deposits daily and assigns individual funding codes to each source upon receipt. All funding is held in a general operating account but differentiated by funding code. A master list of funding codes matched to program accounts is held and updated by the COO and the Director of Partnerships. Funding codes apply to all funding types: donations, grants, public funds, philanthropic funds.

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

The Baltimore Civic Fund keeps records of all supporting documentation related to a program's scope of work and funding sources. All disbursements are initiated by a payment request form completed by City agency staff and signed by the agency's authorized signatory (Agency Director or designated staff). Partnership Managers review payment requests to ensure the request fits within the scope of work for the program as well as within any fiduciary restrictions. Requests are denied if they do not align with the program purpose or if relevant restrictions exist on the funding source. Agencies have an opportunity to amend the request if applicable.

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.

Donations are collected (1) by a web-based donation site and directly deposited into the general account; (2) by check received by mail and deposited into the general account; or (3) by ACH in the general account. All supporting documentation is uploaded into the web-based accounting system and saved with program files. Donors who use the web-based donation site receive an automated acknowledgment email. Donations by other means may be acknowledged by a gift letter from Civic Fund. Donations receive a funding code for tracking purposes. Donations remain in the program's account to be used in accordance with the scope of the program and the purpose of the donation unless otherwise directed by the donor. Once the charitable need is reached, the web-based donation site link will be turned off.


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.

All disbursements require approval by the approval by the City agency ' s authorized signatory, as well as the Civic Fund ' s Partnership Managers, financial team, COO, and outside accounting firm. Sufficient supporting documentation and alignment with the program ' s scope of work and donation ' s restrictions are required. All disbursements are made in accordance with the IRS guidelines for nonprofits.

PART E. SIGNATURE AND AFFIRMATION .

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


I, Alexis Blackmon [Name], on behalf of Mayor's Office of LGBTQ Affairs [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.

 Signature 06/17/2024
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:

 Clerk Signature 07-10-2024
Date