



TO: Board of Estimates, Office of Comptroller

FROM: AGC4301 - Mayoralty

DATE: 04/23/2024

Submission #: SB-24-11261

SUBJECT: Governmental/Charitable Gift Solicitation Waiver for Procurement Conference

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve a Governmental/Charitable Solicitation for the Baltimore Civic Fund.

PERIOD OF 04/15/2024 to 07/01/2026
CONTRACT/AGREEMENT:

AMOUNT AND SOURCE OF FUNDS:

Transaction Amount: \$ 0.00

Project Fund

Amount

BACKGROUND/EXPLANATION:

The purpose of this submission is to request permission to solicit contributions in support of the 2024 Procurement Conference and for the upcoming 2025 and 2026 conferences. This event was held in 2023 and was incredibly successful; SMBA&D plans to hold the event annually. 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. We hope to have enough donations to cover breakfast, lunch, and possibly giveaways. The 2024 Procurement Conference will be held at the Baltimore Convention Center. The conference was not held for several years but was revived in 2023.

The conference was incredibly well attended, and SMBA&D would like to offer breakfast and lunch for conference attendees and participants. We plan to broadly distribute the solicitation packet which may include controlled donors, but they will not be the focus.

MBE / WBE Participation not required / Not applicable to charitable solicitation applications.

COUNCIL DISTRICT: Citywide

EMPLOY
BALTIMORE:

LIVING WAGE:

LOCAL HIRING:

PREVAILING
WAGE:

N/A

N/A

N/A

N/A

1% FOR PUBLIC ART:

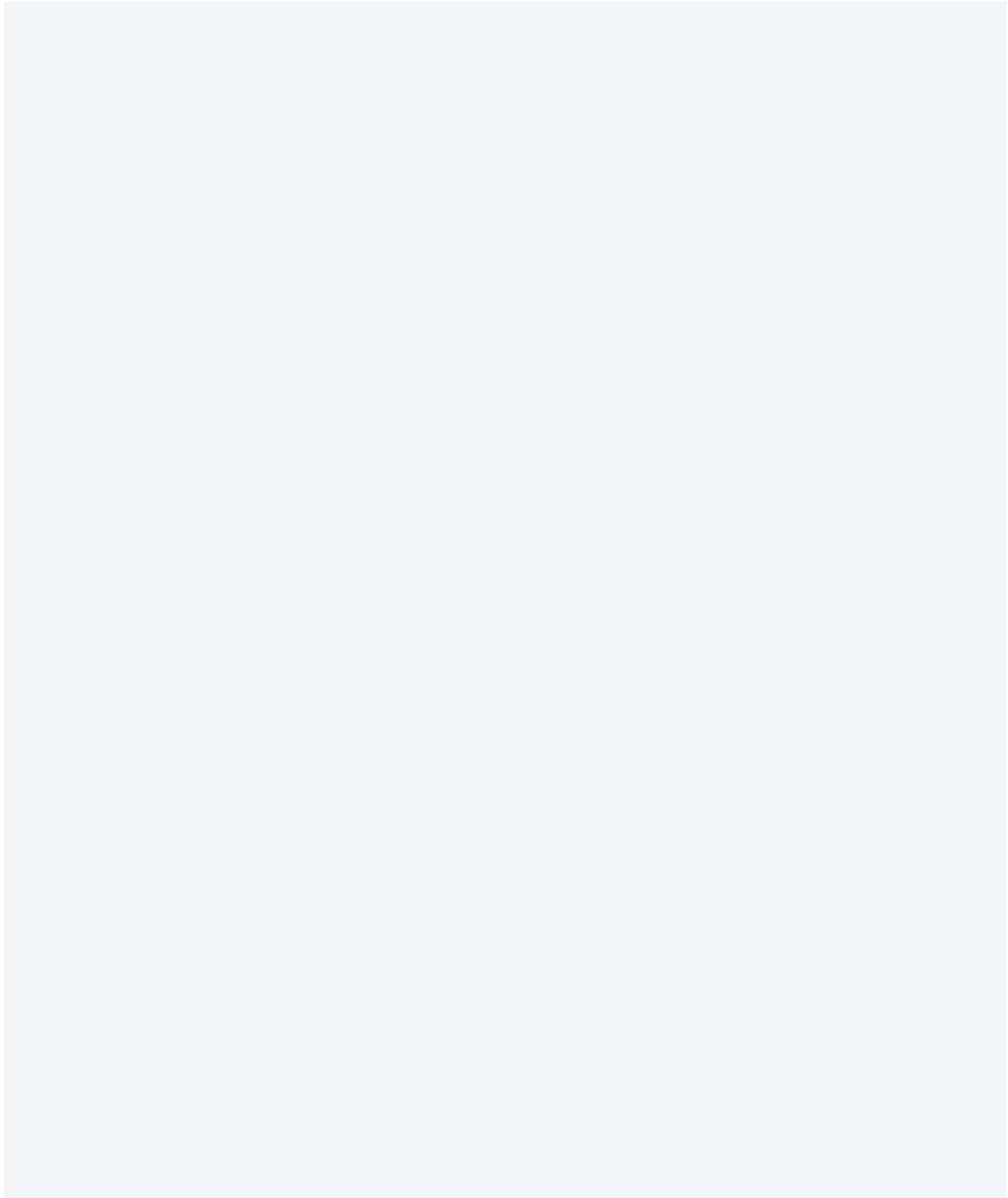
N/A.

ENDORSEMENTS:

A handwritten signature in black ink that reads "N. Amato". The signature is stylized with a long horizontal stroke at the end.

Clerk, Board of Estimates

04-17-2024





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:

PART A. SPONSORING AGENCY.

Agency Name:

Contact Person/Coordinator:

Address:

Phone:

Email:

PART B. PURPOSE OF PROPOSED SOLICITATION.

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

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

- 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:

II. Proposed ending date of solicitation efforts:

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

IV. Identify all *public servants* and other 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*.

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.

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:

Contact Person:

Address:

Phone:

Email:

- I. Disclose the person or persons within the distributing entity who will be responsible 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.**

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

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.

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.

PART E. SIGNATURE AND AFFIRMATION .

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

I, [Name], on behalf of [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 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

☒ E [Signature] - ee of the Board of Estimates: 04-17-2024

Clerk Signature Date