



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:

Francis Scott Key Bridge Collapse Response Efforts

PART A. SPONSORING AGENCY.

Agency Name: Mayor's Office of Baltimore City

Contact Person/Coordinator: Alexandra (Alli) Smith

Address: 100 Holliday Street
 Baltimore, MD 21202

Phone: 443-902-2863

Email: alexandra.smith@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.

Solicited funds will support the response related to the collapse of the Francis Scott Key Bridge through 2 established accounts at Baltimore Civic Fund and 1 at Baltimore Community Foundation:
 1) MIMA's Key Bridge Emergency Response Fund to support needs of the impacted families 2) MOED's Wage Subsidy fund to help Port-impacted small businesses keep their employees on payroll, so that they stay attached to their employers and maintain their health benefits. 3) Maryland Tough Baltimore Strong fund to support regional recovery efforts for port workers, first responders, small businesses.

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

Contributions will be used to support Port of Baltimore workers and their families with expenses incurred related to loss of income, support and relief for impacted businesses, the impacted families of the workers that were on the bridge at the time of the collapse. Among other identified need for support that arise as recovery progresses.

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: April 17, 2024

II. Proposed ending date of solicitation efforts: April 1, 2025

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

Individual donors, foundations, and corporations. There will be no direct exchange of funds.

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

Mayor Brandon Scott, Faith Leach, Alexandra Smith, Bryan Doherty, Marvin James, JD Merrill, Justin Williams, Mackenzie Garvin, HyeSook Chung

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*.

Solicitations will be made broadly during speeches, announcements, and presentations. Those interested in supporting the relief efforts will do so via established relief funds such as through the Baltimore Civic Fund or the Baltimore Community Foundation. Efforts will be made that known controlled donors will not be solicited independently from the general effort.

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 Mayor's Office and its staff will ensure that messaging is made clear in all solicitation communications by including the following language, "donations will in no specific way benefit the donors in terms of city services and or any other favored treatment."

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 included below) / Baltimore Community Foundation

Contact Person: Rachel Donegan, Director of Partnerships

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

Phone: 443-794-7176

Email: rachel@baltimorecivicfund.org

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

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. 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.

[note: there is a need to include accounts within two entities because a centralized, regional fund is housed at Baltimore Community Foundation, the Maryland Tough, Baltimore Strong includes Governor, County Executives and Mayor Scott as honorary Chair and Co-Chairs]

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. In the

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 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, [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
- Endorsed by the Designee of the Board of Estimates:

Clerk Signature

Date