

More calls for probe of Baltimore City Foundation - Councilman Cole asks ethics board to act; Pratt plans audit

By James Drew, *Baltimore Sun*, October 27, 2009

The Baltimore Board of Ethics should review whether city employees have violated ethics statutes by soliciting money for a nonprofit group without receiving approval, a city councilman said Monday.

In a letter to the board's chairman, Councilman William H. Cole IV asked the ethics board to examine the activities of the Baltimore City Foundation, an organization created primarily to help finance city projects for the needy. The request followed the publication Sunday of a Baltimore Sun investigation that detailed questionable transactions by city employees using foundation money. The investigation also documented how some city employees who raised money for the foundation had little, if any, awareness of ethics rules governing those activities.

"While I have no doubt that the Foundation does indeed have an important role in the City of Baltimore, I am deeply concerned about the alleged lack of regard for local ethics laws," wrote Cole.

Dana P. Moore, chairwoman of the ethics board, said she expects it to decide next month whether to go on with the review.

City ethics rules ban employees from soliciting private donations from anyone who "does or seeks to do business" with the employee's agency or whose business is regulated by the agency. The board can grant exemptions in cases where the funds would benefit an official government program activity or a city-endorsed charitable activity.

Also on Monday, Comptroller Joan M. Pratt said she plans to launch an audit of the foundation. She said she made the decision Sunday after reviewing The Baltimore Sun's investigation, and did it independently of a request for an audit by City Council President Stephanie C. Rawlings-Blake.

Although the foundation helps pay for projects such as home smoke alarms for the needy and a summer jobs program, the newspaper's investigation found that city officials have broad discretion over how money is spent. Some of the funds go to projects having little or nothing to do with the foundation's purposes, a potential violation of Internal Revenue Service rules, legal and nonprofit experts say. In one case, city employees tapped its treasury to pay for entertainment and security services for Mayor Sheila Dixon's inaugural celebration. In other cases, the foundation enabled city officials to sidestep competitive bidding on a contract, and inappropriately generate interest income on state money.

In interviews before publication, the foundation's president, Lenwood M. Ivey, said it is the city's responsibility to make sure the money was managed properly, not his or his

board's.

Pratt said the Department of Audits in the comptroller's office asked Monday for copies of independent audits of the foundation over the past five years and expects to get those by the end of the week. A review of those documents - along with board minutes and financial reports that the foundation's nine-member board has received - will determine the size and focus of the audit, and when it begins, she said.

"We want to make sure the funds were not used as an improper pass-through," she said.

Pratt said there was an "apparent lack of controls" at the city foundation.

The foundation's board of directors has a responsibility to ensure that money disbursed from the nonprofit group's treasury complies with its tax-exempt purposes, Pratt said, and board members should have received reports of all contributions and how they are spent.

Based on the amount of contributions that the foundation receives, Pratt said, the nonprofit should have an employee of its own handle its finances. Under the current arrangement, two employees of the city Finance Department do its books and serve as its treasurer on city time.

Pratt said she is concerned about the potential consequences of missteps by the nonprofit group.

"If the organization disbursed money not for the purpose that it was intended, there could be an Internal Revenue Service ruling that they could lose their tax-exempt status," she said.

Cole, who served from 2005 to 2007 as a staff member to Robert L. Bogomolny, then chairman of the ethics board and president of the University of Baltimore, said city employees are trained to get prior approval before soliciting funds from anyone doing business with their agency.

"You don't want someone soliciting a gift for the foundation from someone who is doing business with the city at the same time," he said. "You don't ever want there to appear to be a quid pro quo in a solicitation and a gift."

Cole said The Sun's investigation "raised a lot of red flags." In particular, he said, it suggests that additional controls are needed to prevent questionable transactions involving city employees who spend foundation funds.

"If this is a nonprofit operating under the same laws as every other nonprofit, what is it that their board didn't understand?" he said.

He said Pratt's audit should examine whether the foundation's annual audits addressed how the nonprofit organization operates, who is making spending decisions, whether the

board has spending policies, and who is authorized to signs checks and at what amounts.

Councilwoman Rochelle "Rikki" Spector agreed, saying the foundation lacks oversight from its board of directors and that city agencies should provide more detailed explanations when they draw down money from foundation accounts.

"It appears that just submitting a request for a [check] signature is all it takes. That's not good enough," she said. Ivey, board members, and the foundation's treasurer, Michael E. Broache - chief of the city's Bureau of Accounting and Payroll Services - did not return messages seeking comment.