

<b>FROM</b>	NAME & TITLE	Matthew Garbark, Deputy Chief of Staff <i>MGS</i>	CITY of BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Office of the Mayor City Hall, Room 250		
	SUBJECT	Resolution Relating to Non-Architectural or Engineering Professional Services		

**TO** Honorable President and Members of the Board of Estimates DATE: February 20, 2019

**ACTION REQUESTED OF THE BOARD OF ESTIMATES:**

The Board of Estimates (“Board”) is requested to adopt a Resolution Relating to Non-Architectural or Engineering Professional Services, as amended (“Resolution”). This resolution is directly related to the Regulations on Procurement, Protests, Minority and Women-owned Business Enterprise, and Debarment/Suspension (“Regulations”). The regulations incorporate this resolution by reference. The effective date of the resolution is July 1, 2019.

**AMOUNT AND SOURCE OF FUNDS:**

There are no direct costs associated with this action.

**BACKGROUND/EXPLANATION:**

On December 12, 2018, the Board authorized a 30-day public comment period for this resolution, as proposed. No public comments were received; however, internal process and timing questions were raised. Upon further consideration, the Administration is proposing revisions to the resolution to make the proposed review process more efficient while maintaining accountability. Representatives of Board members have reviewed this resolution and do not object.

As amended, this resolution would require the Comptroller’s designee and the Director of Finance or the Director’s designee to review all proposed professional services contracts that are subject to Board approval and either concur or not concur with it being considered a professional service. The reason the Comptroller’s designee is specified and not the Comptroller is because the Comptroller is a member of the Board, as specified in the City Charter. These contracts will eventually be considered by the Board, so this provision is intended to avoid any inadvertent or unintended conflicts.

If the Comptroller’s designee and/or the Director of Finance or the Director’s designee does not concur, the issue shall go to the Professional Services Review Committee for determination. The Committee will be comprised of representatives of the members of the Board who are not authorized to serve on the Board as designates. Except for the Mayor who can designate any municipal officer or official to serve on her behalf, all other members of the Board have designees that are explicitly stated in the Charter. Again, as these contracts will be considered by the Board, this provision will ensure that there is no unintended or apparent conflict and it will ensure the Committee does not run afoul of requirements for open meetings.

The Committee would be authorized to establish a list of approved services that are automatically considered professional in nature.

Honorable President and Members of the Board of Estimates  
Notice of Proposed Resolution Relating to Non-Architectural  
or Engineering Professional Services  
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To ensure there is adequate training on this resolution as well as on the regulations, the effective date of this resolution will be July 1, 2019.

This resolution has been reviewed by the Law Department for form and legal sufficiency.

**MBE/WBE PARTICIPATION:** N/A

**BALTIMORE CITY RESIDENTS FIRST (BCRF):** N/A

**APPROVED BY THE BOARD OF ESTIMATES:**

*Bonnie N. Taylor*

MAR 20 2019

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

RESOLUTION

OF

THE BOARD OF ESTIMATES OF BALTIMORE CITY

RELATING TO NON ARCHITECTURAL OR ENGINEERING PROFESSIONAL SERVICES

WHEREAS, Article VI, § 11(d) of the Charter of Baltimore City, 2016 edition, as amended (herein after referred to as “Charter”), provides that “all professional services contracted for by the City shall be engaged in the manner prescribed by resolution of the Board of Estimates”; and

WHEREAS, in a Resolution adopted by the Board of Estimates on June 29, 1994, the Board of Estimates reconstituted the Architectural Commission as the Architectural and Engineering Awards Commission (“AEAC”) and tasked the AEAC with considering “whether the requested A & E [architectural and engineering] services should be procured through (a) performance in-house, (b) competitive negotiations, (c) competitive pricing, or (d) design competition”; and

WHEREAS, in a Resolution adopted by the Board of Estimates on June 8, 2015, professional services contracts with expenditures greater than \$25,000 must be approved by the Board of Estimates; and

WHEREAS, professional services entail a wide variety of services, the professional nature of which is determined by the manner of work performed; and

WHEREAS, besides the Resolutions adopted June 29, 1994 and June 8, 2015, the Board of Estimates has adopted no other resolution prescribing the manner in which professional services are procured; and

WHEREAS, except for architectural and engineering services, professional services contracts are generally not competitively bid;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ESTIMATES OF BALTIMORE CITY**, that on this 20<sup>th</sup> day of March, 2019, the following Resolution is adopted:

**I. Definitions.** For the purpose of this resolution, the following terms have the meaning indicated.

A. Board. Board means the Board of Estimates.

B. Committee. Committee means the Professional Services Review Committee.

C. Emergency Procurement. An emergency procurement means a procurement in response to a dangerous condition of such a nature that public welfare would be adversely affected by awaiting the approval of the Board of Estimates.

D. Procurement.

1. Procurement means purchasing, leasing, or otherwise acquiring any supplies, materials, equipment, services, or public works including all functions that pertain to the obtaining of any supplies, materials, equipment, services, or public works, including the descriptions of requirements, selection and solicitation of sources, evaluation of responders, preparation and award of contract, claim resolution, and all phases of contract administration.

2. A grant is not a procurement.

E. Professional Services.

1. Professional services are services that are predominantly mental or intellectual, rather than physical or manual, and require the application of special knowledge, technical skill, as well as the experience that comes from instruction, training, and the exercise of mental facilities.

2. Professional services include the services of attorneys, physicians, architects, engineers, consultants, and other recognized professional individuals, associations, corporations, and groups whose services are customarily negotiated instead of competitively procured because of the individuality of those services and level of expertise involved.

**II. Professional Services Review Process.**

A. The Comptroller's designee and the Director of the Finance Department or the Director's designee shall review all proposed professional services contracts that are subject to Board approval and are not architectural, engineering, or legal services.

B. The Comptroller's designee and the Director of Finance or the Director's designee shall either concur or not concur in the proposed service contract being considered a professional service.

C. Should either the Comptroller's designee or the Director of Finance or the Director's designee not concur, the matter shall be submitted to the Professional Services Review Committee for consideration and determination.

**III. Professional Services Review Committee.**

A. Professional Services Review Committee Established. There is a Professional Services Review Committee, the purpose of which is to review and determine whether a proposed service should be procured as a professional service when:

1. The Comptroller's designee does not concur with the service being procured as a professional service;

2. The Director of Finance or the Director's designee does not concur with the service being procured as a professional service; or

3. Neither the Comptroller's designee nor the Director of Finance or the Director's designee concur with the service being procured as a professional service.

B. Committee Composition. The Committee shall consist of one representative from each of the members of the Board of Estimates whose ability to serve on the Board of Estimates is not explicitly stated in the Baltimore City Charter.

C. Committee Determination. The Committee shall determine whether the proposed service shall be procured as a professional service by majority vote.

IV. Approval List. The Committee may create a list of approved services or professions that are automatically considered professional in nature. The Committee may update the list from time to time.

V. Emergencies and Urgent Needs.

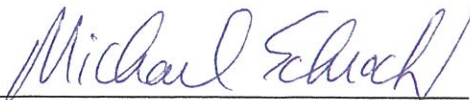
A. Emergencies. The provisions of this resolution do not apply to emergency procurements.


B. Urgent Needs. For urgently needed procurements, which may not be considered an emergency, the Committee may make determinations electronically or by telephone.

VI. Effective Date. This resolution shall take effect on July 1, 2019.

Approved as to form and legal sufficiency  
this 21<sup>st</sup> day of February, 2019

Adopted by the Board of Estimates:

  
\_\_\_\_\_  
Chief Solicitor

  
\_\_\_\_\_  
Clerk

MAR 20 2019

Date