

TITLE 245: CHAPTER 15
LICENSURE AND PRACTICE OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SUBCHAPTER 15. ETHICAL MARKETING OF SERVICES

245:15-15-1. Purpose; scope

Engineering and land surveying are important and learned professions. Engineers and Land Surveyors must recognize that their work has a direct and vital impact on the quality of life for all. Therefore, the services provided by engineers and land surveyors require honesty, impartiality, fairness and equity, and must be dedicated to the protection of the public health, safety and welfare. In the practice of the profession, engineers and land surveyors must perform under a standard of professional behavior which requires adherence to the principles of ethical conduct on behalf of the public, clients and the professions.

245:15-15-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Ethical marketing of professional services” means the solicitation or offer by a licensee, either as an individual or on behalf of a firm, to provide professional services for a potential governmental client, based on the licensee’s professional qualifications, technical ability, specialized training, and the ability to provide the services to the client in a timely manner; with the fee for said services entering into the discussions only after said client has selected licensee as qualified to provide the services required. For the purpose of this Subchapter, if an individual who is not a licensee (i.e. Marketing Director, etc.) is acting on behalf of a firm, as defined in the act, the firm shall be held responsible for the actions of the non-licensee.

“Government client” means any federal, state, county and city governmental bodies including, but not limited to, all departments, agencies, quasi- public governmental agencies, authorities, sub-state planning districts, boards, commissions, offices, institutions, colleges, universities and all individuals acting under authority to represent such governmental bodies.

245:15-15-3. Professional obligation in solicitation of professional employment

(a) The Professional Engineer or Land Surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another Professional Engineer and/or Land Surveyor in a particular engineering or land surveying project. The furnishing of informative brochures on one’s self or one’s firm is not considered an attempt to supplant.

(b) A Professional Engineer or Land Surveyor, acting individually or through a firm, shall neither request, propose, nor accept an agreement, contract or commission for professional services on a “contingency basis” unless there is a conflicting funding requirement. For the purpose of adjudging the provisions of this section, “Contingency basis” shall be interpreted only to include:

- (1) The preparation of preliminary reports and/or applications for funds, where the fee involved is to be paid only after such submission or approval, or the fee is substantially below the actual cost of performing the service, or
- (2) Reviewing for approval preliminary reports and/or applications for funds, where the fee involved is to be paid only after such submission or approval or the fee is substantially below the actual cost of performing the service.

(c) The Professional Engineer or Land Surveyor, acting individually or through a firm, shall seek professional employment from governmental clients or any entity contracted by governmental clients to furnish engineering or land surveying services, in compliance with O.S. Title 61, Sections 60-64. The Board shall have the power to reprimand, place on probation, fine, revoke or suspend the Certificate of Licensure or Certificate of Authorization of any licensee or firm who fails to comply with any provision of O.S. Title 61, Sections 60-64 in effect at the time the services were offered.

(d) Licensees participating in a design/build procurement as a prime contractor or as a consultant to a builder or another professional of any tier for delivery of a project to or for the use of a governmental entity shall not have violated the provisions of OAC 245:15-15-3 by the submission of a fee or price for services prior to the licensee’s selection to participate in the project.