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Governor

Alabama State Board of Licensure for Professional Engineers and Land Surveyors

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Mr. Forest J. Wilson II
TTL Inc
3516 Greensboro Avenue
Tuscaloosa AL 35401

Rule: 330-X-14-.02

General Question: "Is it a conflict of interest for an engineering firm to provide multiple scopes of services for a client for a single project?"

Dear Mr. Wilson:

This Declaratory Ruling of the Board of Licensure for Professional Engineers and Land Surveyors is issued in response to your request.

QUESTION

Is it a conflict of interest for an engineering firm to provide multiple scopes of services for a client for a single project? Example: Providing surveying, civil design, geotechnical engineering, construction administration, testing and inspection services for a client on a single project."

FACTS, LAW, ADMIN CODE, AND ANALYSIS

Section 34-11-1(7), Code of Alabama, 1975 defines the practice of engineering in part as any professional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering science to such services or creative work as consultation, investigation, evaluation, ... which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products; equipment of a control, communication, computer, mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, property; and including other professional services necessary to the planning, progress, and completion of any engineering services.

Section 34-11-1(7)a, Code of Alabama, 1975 includes language related to design coordination. It states: Design coordination includes the review and coordination of those technical submissions prepared by others, including, as appropriate and without limitations, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer.

Section 34-11-1(8), Code of Alabama, 1975 defines the practice of land surveying as: "Professional services, including, but not limited to, consultation, project coordination, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, areas, volumes, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and the utilization and development of these acts and interpretation into an orderly survey map, plan, report, description, or project. Project coordination shall include the coordination of those technical submissions as prepared by others...."

Section 330-X-14-.02 of the Administrative Code of the Board states: The engineer or land surveyor shall exercise independent judgments, decisions and practices on behalf of clients and employers as follows:

"(a) The engineer or land surveyor shall attempt to avoid all conflicts of interest with his or her client or employer, but when a conflict of interest is unavoidable, the engineer or land surveyor shall immediately inform his or her employer or client of any business association, interest, or circumstances which might tend to influence the licensee's professional judgments, decisions or practices or the quality of services.

(b) The engineer or land surveyor shall not solicit or accept any gratuity, material favor or benefits of any substantial nature from any party, agent, servant or employee dealing with his or her client or employer in connection with any project on which he or she is performing or has contracted to perform engineering or land surveying services. This solicitation or acceptance includes, but is not limited to any act, article, money or other material possessions which is of such value proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his or her ability to exercise his or her own independent judgment."

Section 330-X-14-.03 of the Administrative Code of the Board states: The engineer or land surveyor shall act competently and use proper care in performing engineering or land surveying services for clients or employers and shall act only in fields in which qualified by education or experience as follows:

(a) The engineer or land surveyor shall not accept any engineering or land surveying employment, or undertake any engineering or land surveying assignment, for which he or she is not qualified by education or experience to perform or to carry out adequately and competently; providing and excepting, however, that an engineer or land surveyor may accept an assignment requiring education and experience outside his or her field of competence only to the extent that personal engineering or land surveying services are restricted solely to those phases of the service or project in which he or she is qualified and competent, and that all other phases of such service or project shall be performed by qualified consultants, associates or employees.

CONCLUSION

The Code of Alabama and the Administrative Code of the Board don't speak directly to the conflict of interest multiple services question; however they both contain language addressing the requirement that individuals and firms be properly licensed, and any services provided must be performed by persons properly licensed and qualified by education or experience. They also address the coordination of multiple areas of practice.

It is the Board's opinion that no conflict of interest exists when a properly credentialed firm offers multiple services performed by properly licensed or credentialed individuals that are qualified by education or experience. This would include but not be limited to: surveying, civil design, geotechnical engineering, construction administration, testing and inspection services.

A handwritten signature in black ink that reads "M. Elisabeth Hyde". The signature is written in a cursive style with a horizontal line underneath it.

M. Elisabeth Hyde, P.E.
Chair