

ALABAMA STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 330-X-14-.05, Practice

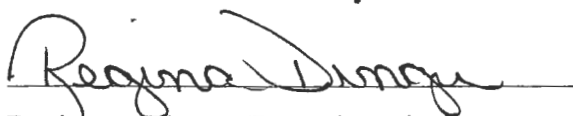
INTENDED ACTION: Amend by deleting 330-X-14-.05(f)

SUBSTANCE OF AMENDMENT: The Board proposes to repeal subparagraph (f) of the Rule and renumber the remaining subsections. This action will repeal the methods to be used in procurement practices.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held on January 31, 2017 beginning at 8:15 A.M. in the Purchasing Division Conference room on the first floor of the RSA Union Building, 100 N. Union Street, Montgomery, Alabama. Interested persons may also present their views in writing to the Alabama Board of Licensure for Professional Engineers and Land Surveyors, 100 N. Union Street, Suite 382, Post Office Box 304451, Montgomery, Alabama 36130-4451.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments concerning these changes must be received by the Alabama Board of Licensure for Professional Engineers and Land Surveyors no later than January 30, 2017.

CONTACT PERSON AT AGENCY: Regina A. Dinger, Executive Director; Alabama Board of Licensure for Professional Engineers and Land Surveyors; P.O. Box 304451, Montgomery, AL 36130-4451; (334) 242-5568.



Regina A. Dinger, Executive Director
Alabama State Board of Licensure for
Professional Engineers and Land Surveyors

**BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**CHAPTER 330-X-14
PROFESSIONAL CONDUCT
(CODE OF ETHICS)**

330-X-14-.05 Practice (Canon IV)

330-X-14-.05 Practice. (Canon IV) The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of reasonability in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

~~(f) The engineer or land surveyor shall not participate in or implement procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.~~

~~Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.~~

~~Examples include but are not limited to, simultaneous negotiations or solicitation of fee proposals by the client from two or more engineers or land surveyors constitutes "bidding" and participation by a licensee is prohibited.~~

~~(g)~~ (f) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice and care and shall endeavor to adhere to all laws in effect in the jurisdiction in which he or she is practicing.

~~(h)~~ (g) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined in Rule 330-X-2-.01(7), he or she should carefully evaluate that Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

~~(i)~~ (h) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

~~(j)~~ (i) The engineer or land surveyor shall issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

~~(k)~~ (j) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment or covenants of this Code of Ethics are overruled under circumstances where life, health, property, or welfare of the public is endangered.

Author: Board

Statutory Authority: Section 34-11-35, Code of Alabama 1975

Effective date: September 10, 1982. Amended: December 19, 1984, October 20, 1987, April 9, 1990, October 18, 1994, October 28, 1998, July 23, 2002, June 4, 2003, and July 27, 2012.

APA-2

ALABAMA STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 330-X-14-.06, Ethics


INTENDED ACTION: Amend by deleting 330-X-14.06 (a)14

SUBSTANCE OF AMENDMENT: The Board proposes to repeal subparagraph 14 of the Rule and renumber the remaining subsections. This action will repeal the reference that professional engineers and professional land surveyors shall not participate in procurement procedures where bidding is the primary consideration to be used in procurement practices.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held on January 31, 2017 beginning at 8:15 A.M. in the Purchasing Division Conference room on the first floor of the RSA Union Building, 100 N. Union Street, Montgomery, Alabama. Interested persons may also present their views in writing to the Alabama Board of Licensure for Professional Engineers and Land Surveyors, 100 N. Union Street, Suite 382, Post Office Box 304451, Montgomery, Alabama 36130-4451.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments concerning these changes must be received by the Alabama Board of Licensure for Professional Engineers and Land Surveyors no later than January 30, 2017.

CONTACT PERSON AT AGENCY: Regina A. Dinger, Executive Director; Alabama Board of Licensure for Professional Engineers and Land Surveyors; P.O. Box 304451, Montgomery, AL 36130-4451; (334) 242-5568.



Regina A. Dinger, Executive Director
Alabama State Board of Licensure for
Professional Engineers and Land Surveyors

**BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**CHAPTER 330-X-14
PROFESSIONAL CONDUCT
(CODE OF ETHICS)**

330-X-14-.06 Ethics (Canon V)

330-X-14-.06 Ethics. (Canon V) The engineer or land surveyor shall contribute to the maintenance, integrity, independence and competency of the engineering or land surveying profession as follows:

(a) The engineer or land surveyor shall not:

1. Violate any provision of the Alabama Law regulating the practice of engineering and land surveying or of the Administrative Code of the Board of Licensure for Professional Engineers and Land Surveyors;
2. Participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the evasion of any provision of the Alabama Law regulating the practice of engineering and land surveying;
3. Fail to exercise reasonable care or diligence to prevent his or her partners, associates, and employees from engaging in conduct which if done by him or her, would violate any provision of the Alabama Law regulating the practice of engineering and land surveying;
4. Engage in any illegal conduct, whether a felony or misdemeanor, the essential element of which is dishonesty;
5. Engage in any conduct that discredits or tends to discredit the profession of engineering or land surveying;
6. Permit or allow his or her professional identification, seal, firm, or business name, or his or her services to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create the opportunity for the unauthorized practice of engineering or land surveying by any person, firm, or corporation in this State;
7. Perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever tend to create a misleading impression;
8. Knowingly associate with or permit or allow the use of his or her name, firm name, or professional identification or seal in any business venture, project or enterprise which he or she knows or has reason to believe is engaged in professional practices which violate any provision of the Alabama Law regulating the practice of engineering and land surveying;
9. Knowingly associate with or permit the use of his or her name, professional identification, seal, firm, or business name in connection with any venture or enterprise which he or she

knows, or has reason to believe, is engaging in trade, business or professional practice of a fraudulent, deceitful or dishonest nature;

10. Injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve an engineer or land surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank, but private, appraisal of engineers or land surveyors or other persons or firms considered for employment;

11. Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of engineering or land surveying; or any firm or corporation in the practice of engineering or land surveying unless carried on in accordance with the provisions of Chapter 11, Title 34 of the Alabama Law regulating the practice of engineering and land surveying;

12. Place his or her seal, signature, date, and license number on a document constituting a certification that the document was prepared by the licensee unless the document was prepared by the licensee or under his or her direct control and personal supervision or unless the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed professional engineer or licensed professional land surveyor.

13. Review the work of another engineer or land surveyor for the same employer, except with the knowledge or consent of the engineer or land surveyor, unless the connection of the engineer or land surveyor with the work has been terminated.

~~14. Participate in procurement procedures for engineering or land surveying services either by providing the bids or in requesting bids from other professional engineers or land surveyors where bidding is the primary consideration.~~

~~15.~~ 14. Fail to respond to the Board on Board inquiries within 60 days of receipt of Board inquiries.

(b) The engineer or land surveyor shall be personally and professionally responsible and accountable for the care, custody, control, and use of his or her engineer's or land surveyor's seal, professional signature, and identification. The engineer or land surveyor whose seal has been lost, misplaced, or stolen shall, upon discovery of its loss, report the loss immediately to the Board, which may invalidate the license number of the seal, if it deems this necessary, and issue another license number to the engineer or land surveyor.

(c) When in public service as a member or employee of any governmental body, agency, or department, the engineer or land surveyor shall not participate, directly or indirectly, use or make use of any property, facility or service of such governmental body, agency or department for the benefit of any private business or activity in which such engineer or land surveyor also may be engaged, unless prior, proper authority is obtained in writing.

(d) The engineer or land surveyor shall not, directly or indirectly, use or make use of any property, facility, or service of his or her client or employer for the benefit of the engineer or land surveyor, unless prior, proper authority is obtained in writing.

(e) The engineer or land surveyor shall not practice or offer to practice engineering or land surveying in any governmental jurisdiction in which to do so would be in violation of the laws

regulating the practice of professional engineering or professional land surveying in that jurisdiction.

(f) Licensees having knowledge of possible violations of any of these Rules of Professional Conduct shall provide the Board with the information and cooperate as necessary to make the final determination of such violation.

(g) It shall be the duty and sole responsibility of each licensee and intern to provide written notification to the Board of any changes to their mailing address and business affiliation within 30 days after the change.

Author: Board

Statutory Authority: Section 34-11-35, Code of Alabama 1975

Effective date: September 10, 1982. Amended: December 19, 1984, August 17, 1992, October 28, 1998, January 19, 2005, January 16, 2009, and July 27, 2012.

ALABAMA STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 330-X-14-.05, Practice

INTENDED ACTION: Amend 330-X-14-.05(f) by deleting the existing language and replacing with revised language.

SUBSTANCE OF AMENDMENT: The Board proposes to amend subparagraph (f) of the Rule. This action will identify that professional employment is based on qualifications and competencies. Multiple licensees and firms may provide competitive price proposals when certain restrictions are met including that a specific scope of work has been developed. Exclusions are identified.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held on January 31, 2017 beginning at 8:15 A.M. in the Purchasing Division Conference room on the first floor of the RSA Union Building, 100 N. Union Street, Montgomery, Alabama. Interested persons may also present their views in writing to the Alabama Board of Licensure for Professional Engineers and Land Surveyors, 100 N. Union Street, Suite 382, Post Office Box 304451, Montgomery, Alabama 36130-4451.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments concerning these changes must be received by the Alabama Board of Licensure for Professional Engineers and Land Surveyors no later than February 13, 2017.

CONTACT PERSON AT AGENCY: Regina A. Dinger, Executive Director; Alabama Board of Licensure for Professional Engineers and Land Surveyors; P.O. Box 304451, Montgomery, AL 36130-4451; (334) 242-5568.



Regina A. Dinger, Executive Director
Alabama State Board of Licensure for
Professional Engineers and Land Surveyors

**BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

**CHAPTER 330-X-14
PROFESSIONAL CONDUCT
(CODE OF ETHICS)**

330-X-14-.05 Practice (Canon IV)

330-X-14-.05 Practice. (Canon IV) The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of reasonability in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

~~(f) The engineer or land surveyor shall not participate in or implement procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.~~

~~Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.~~

~~Examples include but are not limited to, simultaneous negotiations or solicitation of fee proposals by the client from two or more engineers or land surveyors constitutes "bidding" and participation by a licensee is prohibited.~~

The licensee, the engineering firm, or land surveying firm is to seek professional employment based on the qualifications and competencies required for proper accomplishment of the work. This process prevents the engineer or land surveyor or firm from submitting a price for services prior to the prospective client having selected that licensee or firm, based on stated qualifications and competencies, and having provided the licensee or firm with the scope of the work requested.

1. Multiple engineers or land surveyors or firms may provide competitive price proposals, provided the following restrictions are met:

(i) The prospective client has first sought statements of qualifications from interested licensees or firms, and

(ii) Those licensees or firms, selected by the client based on qualifications and competencies required for proper accomplishment of the work, have received in writing a comprehensive and specific scope of work.

2. The scope of work shall not be required to be exhaustive, but shall include those items that practitioners, meeting the standard of care for their respective discipline, would be expected to include as part of their services.

3. Clients that do not wish to develop or are not able to develop a scope of work, may enlist the assistance of one or more of the prospective licensees or firms or a third party to assist them. Price proposals shall reference the client's scope of work.

4. **Exclusions.** Where multiple licensees or firms are requested to provide proposals:

(i) Engineers or engineering firms may provide a price proposal, without having first received a scope of work or having presented their qualifications, provided the price submitted to the client does not and will not exceed \$10,000 in the aggregate and, if not performed properly, would not jeopardize the safety or health of the public.

(ii) For surveying services that do not support or form the basis for engineering design, the surveyor, or the surveying firm, is not subject to subsection 330-X-14-.05(f).

(g) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice and care and shall endeavor to adhere to all laws in effect in the jurisdiction in which he or she is practicing.

(h) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined in Rule 330-X-2-.01(7), he or she should carefully evaluate that Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's

or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

(i) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

(j) The engineer or land surveyor shall issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

(k) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment or covenants of this Code of Ethics are overruled under circumstances where life, health, property, or welfare of the public is endangered.

Author: Board

Statutory Authority: Section 34-11-35, Code of Alabama 1975

Effective date: September 10, 1982. Amended: December 19, 1984, October 20, 1987, April 9, 1990, October 18, 1994, October 28, 1998, July 23, 2002, June 4, 2003, and July 27, 2012.