Report on a Case by the Board of Ethical Review

Case No. 65-6

Subject: Fees for Repetitive Work
Section 9(b)-Code of Ethics

Facts:
An engineer in private practice is retained by a client to design a warehouse, including observation of the construction work. He is paid a fee commensurate with that established in the applicable state society fee guide. Subsequently, he is contacted by another client and requested to provide professional services for a warehouse nearly the same as that previously designed by him, except for minor changes, including those required to conform the building to the site. The client suggests that a fee lower than that normally charged for original design services be negotiated on the basis that the engineer can use his same design, with minor alterations. The state society fee guide is silent on this point.

Question:
Is it ethical for an engineer to charge a fee for repetitive work substantially below that indicated in the state society fee guide for original work?

Reference: Code of Ethics-Section 9(b)"He will not undertake work at a fee or salary below the accepted standards of the profession in the area."

Discussion:
Case No. 62-13 discussed a situation in which the engineer regularly charged fees below those stated in the recommended fee schedule of the state professional engineering society, and held that such action was unethical. The discussion in that case recognized that "fee schedules are flexible in application and that the general fee guidelines are subject to adjustment depending upon the nature and difficulty of the project, the reputation of the engineer or time available for the work, and similar factors which must be considered in-negotiating a fee which is fair to the client and the engineer." The emphasis of Case 62-13 was on the fact that the engineer regularly charged fees below those which are the accepted standard in the area.

We think the situation described in the instant case is quite different. Section 9 (b) should not be read as an iron-clad prohibition against any fee which is below the state fee guide for original work when, in fact, repetitive work is involved. In the latter case, if the state fee guide does not cover repetitive work adequate compensation for the engineer should be assured through the application of proper per diem, cost-plus, or other methods of fee determination. By their very nature, state fee guides must admit of discretion and judgment to apply the guidelines to the particular requirements of each assignment.

Copyright © 1965 National Society of Professional Engineer (NSPE) www.nspe.org . All rights reserved.
To request permission to reproduce this NSPE Board of Ethical Review Case, please contact the NSPE Legal Department (legal@nspe.org).

Even though the state fee schedule is silent on the point of lower fees for repetitive work, we believe that the reasonable conclusion must be that it is within the prerogative of the individual engineer to determine the fair value of his services, and charge accordingly, provided that he does not regularly attempt to undercut normal fees for the area, and provided that his motive in the instant case is not to reduce the normal fee for the work involved for the purpose of a competitive advantage over fellow engineers.

The facts of this case show a reasonable basis for a reduction in the fee stipulated in the state fee schedule for original design in that the costs of the engineer will be substantially less for the repetitive work. We perceive no reason why an engineer may not take advantage of his own previous work and arrive at the conclusion that such fee will provide him with a fair return for the expenditure of time and effort required for the work to be accomplished. His decision is particularly justified when he will be in a position to render satisfactory services to a client at a lower cost.

Conclusion:
It is ethical for an engineer to charge a fee for repetitive work substantially below that indicated in the state society fee guide for original work, provided he is adequately compensated for his services.

Board of Ethical Review: T. C. COOKE, P.E. L. R. DURKEE, P.E. A. C. KIRKWOOD, P.E. WALDEMAR.S. NELSON, P.E. N. O. SAULTER, P.E. KURT F. WENDT, P.E. PHIL T. ELLIOTT, P.E., Chairman

Copyright © 1965 National Society of Professional Engineer (NSPE) www.nspe.org . All rights reserved.
To request permission to reproduce this NSPE Board of Ethical Review Case, please contact the NSPE Legal Department (legal@nspe.org).