Report on a Case by the Board of Ethical Review

Case No. 65-8

Subject: Supplanting Another Engineer – Out-of-State Firm
Section 11(a) - Code of Ethics

Facts:
A local public agency negotiated a contract with a consulting engineering firm for design of an unusual and monumental type structure. The retained firm is located outside the state and has had considerable experience in the type of design involved. In the opinion of the professional engineers on the staff of the public agency there are no consulting firms within the state that are qualified to handle a project of the complexity and magnitude involved.

Several local consulting firms, upon learning of the contract with the out-of-state firm, contacted officials of the public agency and sought to have the contract terminated in favor of a contract with a local firm. The local firm stated that although they did not have direct experience in the type of project involved, they would make arrangements for an adequate staff to handle the design requirements.

Questions:
1. Did the local consulting engineers act ethically in attempting to supplant the out-of-state firm which had been retained?

2. Did the professional engineers in the public agency act ethically in recommending retention of an out-of-state firm?

Reference:
Code of Ethics-Section 11(a) - "The Engineer will not attempt to supplant another engineer in a particular employment after becoming aware that definite steps have been taken toward the other's employment."

Discussion:
This case is different from the principles involved in Case 62-18 only in that the obvious effort to supplant an engineering firm which had already been retained involved an out-of-state firm. There is no need to discuss the application of Section 11(a) to the facts because there is clearly a direct conflict with the ethical standard unless it can be excused on the ground that the section does not apply to out-of-state firms.

We can see no implication in the language of Section 11(a) that its application is restricted geo- graphically, or in any other way. The ethical prohibition is applicable to all attempts to supplant another engineer.

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Whether it is good policy for a public agency to contract with out- of-state firms is a policy question which may be subject to conflicting points of view. From an ethical standpoint, however, the professional engineers of the agency are justified in seeking the firm deemed best qualified, all factors considered, for a particular project and, in fact, are required to do so. There is no language in the Code which states or implies that this responsibility is subject to geo- graphical limitations.

Conclusions:

1. The local consulting engineers acted unethically in attempting to supplant a firm which had been retained for the work.

2. The professional engineers in the public agency acted ethically in recommending the retention of an out-of-state firm which they deemed to be best qualified for the work.

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