Report on a Case by the Board of Ethical Review

Case No. 75-1

Competitive Bidding—Salary Request in Recruiting Advertisement

Facts:
Example 1 - A manufacturing company runs a recruiting advertisement for engineers in daily newspapers, trade journals and engineering magazines seeking certain categories of engineers for employment on a salaried basis. The advertisement calls for submission of basic data of the applicants, such as education, experience and also "salary requested."

Example 2- A consulting engineer in private practice carries the same type of recruiting advertisement in similar publications, also requiring the applicants to state "salary desired."

Questions:
1. Is it ethical for an engineer to submit an application for employment including a response to the salary request portion?

2. Is it ethical for the consulting engineer in private practice to include "salary requested" in the recruiting advertisement?

References:
Code of Ethics - Section 3(b) - "The Engineer may advertise for recruitment of personnel in appropriate publications or by special distribution. The information presented must be displayed in a dignified manner, restricted to firm name, address, telephone number, appropriate symbol, name of principal participants, the fields of practice in which the firm is qualified and factual descriptions of positions available, qualifications required and benefits available."

Section 11(c) - "He shall not solicit or submit engineering proposals on the basis of competitive bidding. Competitive bidding for professional engineering services is defined as the formal or in formal submission, or receipt, of verbal or written estimates of cost or proposals in terms of dollars, man days of work required, percentage of construction cost, or any other measure of compensation whereby the prospective client may compare engineering services on a price basis prior to the time that one engineer, or one engineering organization, has been selected for negotiations.

"The disclosure of recommended fee schedules prepared by various engineering societies is not considered to constitute competitive bidding. An Engineer requested to submit a fee proposal or bid prior to the selection of an engineer or firm subject to the

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negotiation of a satisfactory contract, shall attempt to have the procedure changed to conform to ethical practices, but if not successful he shall withdraw from consideration for the proposed work. These principles shall be applied by the Engineer in obtaining the services of other professionals."

Discussion:
There is a long-established practice of employers calling for applicants for employment to state either salary requested, present salary level, or other forms to indicate the salary expectations of the applicant.

The question has been presented on the stated premise that §11(c)'s prohibition of competitive bidding for engineering services is not restricted to a particular form of engineering activity, but is equally applicable to employment as a salaried engineer. Therefore, it is contended that §11(c) should apply equally to engineers seeking employment and engineers offering employment. There is admittedly some logic to he contention that the concept behind §11(c) is to adhere to a procedure which will emphasize qualifications and quality of engineering rather than price as being in the best interest of the client (employer in this case), but recognizing that price is a proper factor for negotiation purposes after the client (employer) has determined the best qualified person for the purpose of the engagement.

We have noted §3(b) for the purpose of this case, even though it is related only to advertising for engineering services, because it cites the restrictions placed upon recruiting advertisements, and by omission does not identify salary required or salary desired by prospective employees in the list of items which may be included in recruiting advertisements. This may tend to bolster the claim that salary requirements for engineering positions are not a proper item for initial consideration in submitting an application for engineering employment.

If the above premise is correct, it would then logically follow that an engineer-employer may not call for salary requirements for engineering employment, and hat an engineer-applicant may not ethically submit salary requirements inasmuch as §11(c) prohibits the submission of competitive bids as well as their solicitation.

We think that this analysis must fail, however, because §11(c) deals with "engineering proposals" in the first sentence and "engineering service" (twice) in the second sentence. Also, reference is made to "recommended fee schedules" in the third sentence, but without reference to recommended salary schedules or guides.

In full context, then, we must conclude that the thrust and purpose of §11(c) runs only to consulting engineering services as between a client and engineer or firm in private practice. Although it is not controlling, we further note that NSPE Policy 10-G, which is directly related to competitive bidding for engineering services defines "engineering services" in client-consultant terms rather than in terms of salaried employment. In reaching this conclusion we are influenced, properly we believe, by the long-standing

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tradition and practice of employers - private and govern mental - calling for salary expectation indications from prospective employees.

Employers generally are guided, if not sometimes controlled, by established salary scales for various categories and classes of employees, and considerable practical problems would arise in having the employer be required to expend time and money to interview a prospective employee ranked as the first choice if the anticipated salary of that employee was at wide variance from the salary contemplated by the employer in relation to his overall salary schedule and relationship to other employees.

The same practical difficulties might be said to apply to the consultant-client relationship under §11(c), but the circumstances are vastly different. In the consultant client relationship the equivalent of a salary, i.e., the fee, is properly subject to a scaling up or down following the detailed discussions of the many factors which enter into the development of the project, as a result of which the consultant may adjust such factors as time for completion, extent of services, assignment of personnel, depth of study and investigation, and similar factors. This same flexibility arising from negotiation of the services does not normally apply to the relationship between salaried personnel and employer.

Conclusions:*

Q.1. - It is ethical for an engineer to submit salary requirements in response to a recruiting advertisement.

Q.2. - It is ethical for a consulting engineer in private practice to include "salary requested" in a recruiting advertisement.

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Board of Ethical Review: William J. Deevy, P.E.; William R. Gibbs, P.E.; Joseph N. Littlefield, P.E.; Donald C. Peters, P.E.; James F. Shivler, Jr.; Louis W. Sprandel, P.E.; Robert E. Stiemke, P.E., chairman

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