



NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS

BOARD *of* ETHICAL REVIEW



CASE REVIEW:

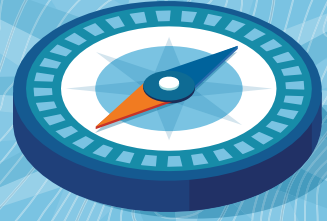
Sharing As-Built Drawings

CASE NO. 22-2
APPROVED NOVEMBER, 2022

NSPE.ORG



BOARD of ETHICAL REVIEW



SHARING AS-BUILT DRAWINGS

CASE NO. 22-2

APPROVED 11/22

FACTS:

Engineer D is a fire protection engineer in the public sector and works for a state agency. The agency advertises for bids on major building renovation projects; the bid documents made no reference to existing as-builts or drawings for the bidders' or awarded contractor's use. After bids are opened and contracts are awarded, the successful sprinkler contractor asks Engineer D for as-built drawings of the existing sprinkler system. D provides the drawings. Over time, sprinkler contractors who received as-built drawings from Engineer D in the past begin to ask for these documents when projects are advertised, before bids are turned in.

QUESTION:

1. Is it ethical for Engineer D to provide access to as-builts after projects were awarded?
2. Is it ethical for Engineer D to share as-builts with sprinkler contractors who ask for information during the bidding phase?

NSPE CODE OF ETHICS REFERENCES:

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| Canon I.4. | Act for each client as a faithful agent or trustee |
| Canon I.6. | Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession |
| Rule II.1.c. | Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code |
| Rule II.5.b. | Engineers shall not offer to give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect of or intent of influencing the awarding of a contract |

Professional Obligation III.1.

Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

Professional Obligation III.4.

Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical process of any present or former client or employer, or public body on which they serve

NSPE BER CASE REFERENCES:

[82-2](#), [15-7](#), [16-3](#)

DISCUSSION:

Acting as a faithful agent or trustee for a client or employer is an obligation for any engineer and is one of the fundamental canons in NSPE's code of ethics. Engineer D's efforts to make as-built drawings available for reference appears to be acting in the employer's best interest. Providing more information about existing conditions should help produce a better design. When D provides as-built drawings after bid openings, is employer information being shared without consent? In addition, if information is shared selectively with contractors before bids are opened; will D's actions influence the award of a contract?

[BER Case 82-2](#) is a useful starting point in this discussion. In that case, an engineer offers a service providing inspection of residences to prospective homeowners. For the situation in question, the engineer produced a report for their client and provided a copy to the real estate firm handling the home sale. The client com-

plained the engineer acted unethically by providing a copy to the real estate firm and caused harm by lessening their bargaining position with the owners of the residence.

Case discussion notes there was no transmission of the client's confidential information by the engineer (presumably the real estate firm could have had the home inspected and gained the same knowledge). The BER states "we read into this case an assumption that Engineer A acted without thought or consideration of any ulterior motive; that he, as a matter of course, considered it right and proper to make his findings known to all interested parties ..." The board exonerated the engineer of substantial or deliberate wrongdoing, but determined it was incorrect to not recognize the confidentiality of a client relationship. The engineer acted unethically in submitting a copy of the home inspection report to the real estate agent.

[BER Case 15-7](#) involves the ubiquitous Engineer A working for Firm X. A's firm is retained by a municipality to design a water treatment facility. A believes the project can benefit from a discussion of constructability issues, and is tempted to begin a discussion with local Contractor B. A is concerned that potential discussions with B will provide an unfair advantage. The board advised that "rather than consulting solely with Contractor B, Engineer A could have conducted a publically (sic) advertised constructability meeting, inviting all interested contractors to provide Engineer A with the input necessary to achieve a better design and construction outcome. Such a process would avoid any appearance of favoritism toward one particular contractor, serve the client's interests, and gain the benefit of broader input to improve the design and construction process."

The above summary of case history focused on engi-

neers providing or being in position to have access to information not generally available to others. [BER Case 16-3](#) involves Engineer A who receives a submittal by a highly qualified engineering firm (Firm B) a few hours after a well-publicized deadline. In [16-3](#), “the Board is concerned that allowing Firm B’s submittal to be considered would open the procurement to challenge or at the very least create a climate in which non-adherence to public procurement rules and policies are tolerated. Such a situation would not reflect well on that process, the city, or the engineering profession.” The conclusion was that A should return the submittal to firm B, unopened and explain that the bid/submittal was received late.

Returning to the case at hand, Engineer D seems to be acting without what was termed in case [82-2](#), an ulterior motive - D’s desire is to make information available to improve designs. Even so, informally sharing as-built information is troubling. Working through informal mechanisms on public projects can give the appearance of impropriety or favoritism. Engineer D can advise that as-built drawings are available, but D should direct subcontractors to request them as part of the standard project process. D should not share documents on their own initiative or without formal permission. Because as-builts are useful and can help improve designs, Engineer D should initiate a process to include as-built drawings, when available, on projects going forward. It would be unethical for D to share as-builts with selected contractors pre-bid.

CONCLUSIONS:

1. It is ethical for Engineer D to make it known that as-built drawings are available; but they should be readily available to contractors as part of the standard project delivery process to assure that all contractors have equal access to the information.

2. It is unethical for Engineer D to share as-built documents selectively pre-bid. D should work to make as-built documents available for all bidders as part of contract documents.

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