



Laments, Dreams and Hard Decisions: The Ethics Behind Forestry Consulting

WITH RESPECT TO LEGAL LIABILITY, CONSULTANTS, rather than company or government employees are at the highest risk. Paying careful attention to ethics is one way to minimize this legal liability. Here are four ethical issues applicable to consultants:

The Consultant's Lament: Bid Woes

How many times have we heard this lament: "The winning bid on that project was so low that... (fill in the blank)."

- They won't even be able to afford Kraft Dinner.
- They will have to hitchhike to the field site every day.
- It's only half of my bid. And I have minimal overhead because I work out of my garage.

Submitting an extremely low bid to keep working is not ethical because it increases the chance for poor quality work due to cutting corners.

Bylaw 11.5.7 states, "*To levy only those charges for services rendered that are fair and due.*" The interpretive guideline for this bylaw says the following:

When determining rates, a member must consider all costs (including overhead) and include a reasonable margin for profit and risk. It is expected that the fees charged will meet the test of being fair and reasonable in all circumstances considering the member's experience, the complexity of the work, risk and market demand. Fair and reasonable does not mean cheap. Fair and reasonable means charging the rate required to perform the work/services to all standards expected by the profession and what the market will bear. Do not allow competition (i.e. low bid tendering) to force you to bid so low it undermines your ability to complete profes-

sional quality work. Claiming that you could not afford to do a better job, because of the fee you charged, is not an excuse for work that is not completed to professional standards.

The Consultant's Elusive Dream: Name Your Price

These days the occurrence of this scenario is much rarer than The Consultant's Lament. The customer desperately needs some work done and you're the only person qualified and available to do it.

Again, Bylaw 11.5.7 states, "*To levy only those charges for services rendered that are fair and due.*" Here is some interpretive guide advice from Bylaw 11.5.7 when it comes to submitting a high bid:

It is not fair to take advantage of abnormalities in the market or to price gouge. Charging excessive rates since you happen to be the only qualified person available to complete the job during that specific time frame would not be fair. It would be acceptable to include any costs incurred due to rescheduling other work, cancelling flights, accommodation, etc. to be able to complete the job during the specified time.

Work of unusual complexity or taken on an emergency basis and which needs to be completed in an expedited basis, or when an unusually good result is achieved, may be charged a premium as long as the premium is fair and reasonable in all of the circumstances.

The Phone Call that Saves the Day: But Are You Competent?

Business is really slow. You had to layoff the crew and even though you have time for holidays, you can't even afford to go to Spuzzum. The phone rings and interrupts your game of solitaire on the computer. It is a client asking if

you can do a large project for them on a short notice direct award. However, the nature of the work is something that you or your crew do not have experience with and you would need a significant amount of training to be competent in carrying out the work. Can you do anything besides decline the work?

Bylaw 11.3.7, "*To practise only in those fields where training and ability make the member professionally competent.*" Advice from the interpretive guide:

This requirement does not restrict members from entering new areas of endeavor. Members may only enter these new areas after ascertaining they have the required resources (knowledge, expertise or appropriate supervision) to complete the work in a professional manner. In these situations, the clients/employers must be informed prior to the members undertaking the work.

Members are encouraged to grow and develop their practices and areas of expertise by taking on projects/work in new areas so long as they do so without exposing the client or employer to additional risk or expense. While they are gaining expertise they could do either of the following:

1. Discuss with the client/employer that this is a new area of work and that it will take longer to do the job while they conduct research or consult experts. They may also need to discuss issues of price with the client, perhaps charging a lower hourly rate or absorbing extra costs themselves. Of course this does not prevent an agreement with the client, if after being fully informed and appraised of the options, in which the client willingly pays for the professional's learning curve.

2. Hire, at their own expense (or with fully informed consent and agreement of the client, at the client's expense) experts to assist with the project and through which the professional can learn the new skill sets required.

This advice is further strengthened in Bylaw 11.5.4, *To accept only those assignments for which the member is qualified or seek assistance from knowledgeable peers or specialists whenever a field of practice is outside the member's competence.*

Being Asked to Prove You Are Not in a Conflict of Interest

If you are asked, or could be asked, to prove you are not in a conflict of interest, it means you are in a perceived conflict of interest. As a

consultant, you will need to weigh the financial benefits of accepting the job with a perceived conflict of interest (with full disclosure to the client) against the potential damage to your reputation when others perceive a conflict of interest. You may be able to prove that you are not working in a conflict of interest but you can only do this if someone asks. If they don't ask, the perception will still be there.

Working as a consultant adds many complexities. You're running an entire business, not just doing a job. If you're ever uncertain about an ethical decision, consider using the ABCFP's free Practice Advisory Service that offers a confidential peer-based advisory service to members.

The Practice Advisory Service is not

intended to provide legal advice, but rather to provide suggestions from experienced forest professionals. They don't have all the answers, but they can usually point you in the right direction or at least provide you with a range of perspectives for consideration. This service is totally confidential and has no connection to the association's discipline process. Your name will not be distributed or documented. 🌱

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