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Before accepting a mandate, step back and take stock!

Before accepting a mandate, an engineer must bear in mind the extent of his proficiency and aptitudes and also the means at his disposal to carry out the mandate.

Code of ethics of engineers, section 3.01.01

Section 3.01.01 is the first section in the division of the Code of ethics of engineers which introduces the engineer's duties and obligations towards clients. At the outset, let us take a moment to understand its meaning and scope.

BEFORE ACCEPTING A MANDATE

Taking time to reflect before accepting a mandate in order to understand its implications and ensure that one has the capacity to execute it, in every aspect, with all the competence, thoroughness and professionalism expected from members of the Ordre, that is precisely what is required pursuant to section 3.01.01 of the *Code of ethics of engineers.*

Engineers must demonstrate foresight. Before agreeing to the terms of a mandate with a client, an engineer must first identify the mandate, and understand its nature and scope. A methodical examination relating to the context and objectives of its execution will help the engineer verify the mandate's level of complexity, its magnitude and the problems that need to be solved and thus determine the knowledge, abilities and means required to carry out the mandate. The engineer must then assess the limits of his or her proficiency and aptitudes as well as the means at his or her disposal. These steps must be taken before accepting the mandate, not once the engineer has agreed to execute the work.

The notion of "mandate" used here covers the various ways engineers can be called upon to practise their profession. Whether he or she is an associate in an engineering firm asked to prepare a tender, an employee instructed to carry out part of the work in an extensive project driven by the employer, an engineer working for an organisation whose main activities do not consist in offering engineering services, a self-employed worker, etc., all engineers have an ethical duty to bear in mind the limits of their knowledge and aptitudes as well as the means at their disposal before committing to a mandate.

TAKING INTO ACCOUNT THE LIMITS OF ONE'S PROFICIENCY AND APTITUDES

Engineers must ensure that they have the necessary competence to execute mandates we wish to give them. Such competence exceeds the training required to become an engineer or to practise engineering in a given field. It deals with the set of qualifications engineers must possess in order to execute every aspect of a mandate. This includes knowledge, experience, know-how and the ability to effectively use the aforementioned in the best interest of the client, the employer or whoever benefits from the engineer's services.

Not only must engineers possess all the required knowledge, they must also be able to apply technical know-how, rules and standards thoroughly, with clear judgment and in accordance with trade practices. These skills are specific to the area related to the proposed work. Save for a few exceptions, the skills acquired in school are not sufficient. They cannot replace those particular abilities and aptitudes acquired through years of practical experience, often times by working closely with seasoned colleagues who have developed an impressive specialized expertise. Continuing education activities and refresher courses also contribute to acquiring and maintaining one's competencies[1].

The limits of one's proficiency and aptitudes may, to a certain extent and depending on the circumstances, be compensated by guidance or assistance from colleagues with whom the engineer practises the profession. In other words, the means at the engineer's disposal may, at times, compensate his or her limited personal skills and aptitudes; however, the engineer will have to make sure that these means are and will remain at his or her disposal. The engineer can then build a team or convene a partnership before submitting a tender.

Furthermore, engineers must not solicit and accept a mandate with the hope of muddling through and somehow developing the required skills and aptitudes during the course of the mandate or getting outside help to make up for their deficiencies. In fact, engineers cannot misrepresent themselves and mislead clients as to their level of competency or the scope or effectiveness of their professional services[2]. In short, they cannot pretend to be something they are not.

What's more, when one or several aspects of the mandate require particular or specialized skills, engineers have a responsibility to obtain their clients' authorization to

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retain experts in the matter, or to inform clients that they should hire experts themselves, in accordance with section 3.01.02 of the *Code of ethics*.

The Disciplinary Council rendered several decisions in which engineers were charged with violating section 3.01.01 for having accepted a mandate without having the required knowledge and aptitudes, namely because:

- the mandate did not fall within the purview of the engineer's usual field of practice[3] ;
- the engineer had little to no experience to carry out a mandate of such kind, even though it was in his field of practice[4].

According to the Disciplinary Council, "it can be risky for engineers to accept mandates outside their area of expertise or habitual field of practice. Accepting certain mandates for which they don't always have the necessary skills or aptitudes for lack of practice can have serious consequences for the engineer as well as for the public dealing with such engineer." [5]

Consequently, engineers must be extremely prudent before accepting a mandate which does not, at first glance, fall within their field of practice.

Professional experience acquired in a context which fosters the communication of technical knowledge and the development of new skills (for example, under the supervision of a qualified and seasoned engineer), coupled with specific training courses and materials, can help engineers practice in a new area in a competent manner.

TAKING INTO ACCOUNT THE MEANS AT ONE'S DISPOSAL

Engineers must also ask themselves if they will have the means necessary to execute the mandate. Bearing in mind the means at one's disposal means taking into account the context in which the mandate, in all aspects, will be carried out. In other words, one must consider:

- time allowed to execute the work;
- human resources (experts, guidance and supervision, technical and administrative support, etc.), financial resources (budget constraints imposed by clients or employers, the firm's financial soundness, etc.), material resources (equipment, tools, software, etc.) as well as intellectual property resources (patents, user licenses, etc.), which are necessary and available[6];
- access, or lack thereof, to relevant information, meaning having on hand or being able to obtain in a timely fashion, during the course of the mandate, all required knowledge of the facts[7], including access to relevant data, research and analyses[8], access to the site so as to carry out required readings, scientific tests or samplings (such as geotechnical investigations[9]), or even the possibility to meet or question certain people[10];
- geographic remoteness and, thus, the number of trips to the site and the time these trips will take;
- the company's culture;
- elements unrelated to engineering, such as the consequences and interrelations arising from the multitude of disciplines involved in the project (architecture, land surveying, biology, computer science, law, etc.);
- regulatory requirements (pre-requisite permits or authorizations from competent authorities, etc.), weather conditions, the political climate, conditions that absolutely must be met before the work starts (signing agreements, authorizations relating to expropriations, etc.) and, in turn, inherent and binding delays which can be hard to predict.

During this period of reflection, engineers must not neglect the bulk, duration and deadlines of their other ongoing files, which can greatly influence their capacity to accept a new mandate. Engineers must also make sure that they are covered by professional liability insurance under the Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec (unofficial translation)[11] for this type of mandate, or in accordance with the client's requirements, as the case may be.

Engineers can have the required competence yet still be forced to refuse the mandate because they don't have the necessary means to execute that mandate in a professional manner and in compliance with trade practices. What's more, ethical obligations on which professionalism in based apply just the same, regardless of remuneration[12]. Thus, engineers cannot accept a mandate knowing that they would have to render an incomplete opinion, either because they wish to help out a client in too short a period of time or because the client does not want to pay the costs associated with a thorough and exhaustive verification and analysis of the problem or situation at hand[13].

FOR THE PUBLIC'S PROTECTION

It is important to understand that this ethical obligation is not only aimed at protecting the client but the public as well. Every area of engineering has its particulars, standards and trade practices which must be respected and force engineers to consider a number of laws and regulations. Consequently, engineers should not shrug off their duty to assess whether or not they are able to carry out a mandate by providing quality professional services before they accept the mandate in question. This preliminary step cannot be neglected, under any circumstances. Engineers must take the time to go through this exercise, otherwise the effects on the environment, or on the property, health, safety and life of individuals can be quite serious. Such crucial prudence greatly contributes to maintaining the profession's credibility and the trust between engineers and the public.

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1. The obligation relating to continuing education stems from the Regulation respecting mandatory continuing education for engineers (unofficial translation), R.S.Q, c. I-9, r. 9.
2. See sections 60.1, 60.2 of the Professional Code and section 3.02.02 of the Code of ethics of engineers.
3. Alaurent v. Talbot, CDOIQ 22-00-0006; Alaurent v. Richard, CDOIQ 22-06-0336; Tremblay v. Bédard, CDOIQ 22-05-0307; Alaurent v. Chrétien, CDOIQ 22-97-0002.
4. Alaurent v. Rivard, CDOIQ 22-05-0322; Alaurent v. Rughani, CDOIQ 22-07-0354; Latulippe v. Paré, CDOIQ 22-02-0268, 2007 QCTP 142; Alaurent v. Guilmaine, CDOIQ 22-22-02-0261.
5. Alaurent v. Gélinas, CDOIQ 22-99-0010; see also Alaurent v. Lagacé, CDOIQ 22-96-0003;.
6. Alaurent v. Desjardins, CDOIQ 22-06-0331.
7. Alaurent v. Altable, CDOIQ 22-05-0313; Alaurent v. Cantin, CDOIQ 22-04-0293; Alaurent v. Nadeau, CDOIQ 22-00-0028.
8. Prud'Homme v. Sohier, CDOIQ 22-09-0373.
9. Alaurent v. Talbot, op. cit., note 3.
10. Alaurent v. Nadeau, CDOIQ 22-00-0028.
11. R.S.Q., c. I-9, r. 1.1.1.
12. Ingénieurs v. Béïque, 1995, D.D.O.P 249.
13. Op. cit., note 8.