

Report on a Case by the Board of Ethical Review

Case No. 66-6

Subject: Political Influence in Award of Contract
Section 11(b)-Code of Ethics.

Facts:

The City of X is interested in employing engineers for a municipal improvement. Four engineering firms, all experienced in this type of improvement are interviewed by the City. The City is seeking Federal funds to help defray part of the cost of the improvement. Before deciding on their engineering choice, City officials consult the Congressman from their District and solicit his assistance in getting Federal aid. The Congressman advises that they should have a good chance to get Federal money and suggests that their chances would be even better if they retain a certain engineer who is not one of the four previously considered. The engineer named by the Congressman is then interviewed by the City and engaged. This engineer does have experience in this type of municipal improvement.

Question:

Is it ethical for an engineer to accept a contract when his selection was influenced by political considerations?

References:

Code of Ethics-Section 11 (b) "He will not offer to pay, either directly or indirectly, any commission, political contribution, or a gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies."

Discussion:

As pointed out in Case 66-5, it is of paramount importance that an engineer's conduct be at all times above suspicion.

For the purpose of this case we assume that the engineer who was selected at least had knowledge of the intervention of the Congressman. If so, that factor alone would not constitute a violation of Section 11(b) in the absence of a further showing that the engineer had offered or paid any commission or had made a political contribution, gift, or other consideration to the Congressman which could be related, directly or indirectly, to the interest of the Congressman in seeking to influence the city on behalf of the engineer.

In Case 62-12, dealing with political contributions, we pointed out that the problem of political influence in the award of contracts is a problem of "motivation-what was in the mind of the contributor." In this case, however, there is no evidence that political contributions were made.

Inasmuch as the engineer who was retained is qualified for the work, we cannot say that there was any ethical violation on his part in accepting the contract, even though he knew that his selection was influenced through political channels. The question arises, of course, as to why the Congressman used his influence in favor of a particular engineer. He may have had reason to believe that the engineer had outstanding qualifications for the project; the engineer may be a friend or a political supporter; or he may have been motivated by the hope that future political support might be forthcoming. But the motivation of the Congressman is not material because the ethical obligation here involved is upon the engineer only.

Our conclusion would be different, of course, if there was reasonable evidence to support a belief that the engineer was favored by the Congressman on the basis of a political contribution or gift. In the absence of such evidence the Code does not restrict an engineer from taking advantage of the assistance of others in securing contracts, even though he had knowledge of such outside intervention.

Conclusion:

Situations involving political considerations are to be avoided because they are fraught with many dangers and frequently result in suspicion of unethical behavior. However, the Code does not prohibit an engineer from accepting a contract, even though his selection was in part influenced by political considerations, provided that the engineer has not paid, or offered to pay, directly or indirectly, any commission, political contribution, gift, or other consideration for the influence on his behalf.

The Board of Ethical Review was established to provide service to the membership of the NSPE by rendering impartial opinions pertaining to the interpretation of adopted Canons of Ethics and Statements of Policy regarding professional conduct.

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