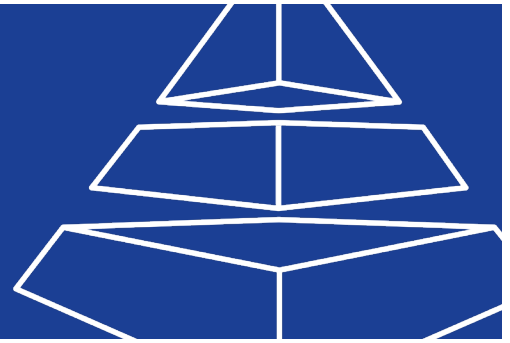




# DBIA Code of Professional Conduct



## I. Introduction

Designated Design-Build Professionals and Designated Associate Design-Build Professionals are expected to exhibit high standards of honesty and integrity. The design, construction and ownership of buildings and other structures and improvements have a direct and vital impact on the quality of life for all people.

Within this DBIA Code of Professional Conduct (the “Code”), “Professionals” means both Designated Design-Build Professionals and Designated Associate Design-Build Professionals.

Professionals should endeavor to perform under a standard of professional behavior that adheres to the highest principles of ethical conduct. This Code addresses Professionals’ responsibilities to the public, clients and users of design-build services, co-workers and employees, those who perform, furnish or provide design-build services, and competitors in the design-build marketplace.

This Code is arranged in two tiers of statements: Ethical Rules and Comments. Only the violation of an Ethical Rule can be the basis for a complaint or for disciplinary action. Comments do not provide the basis for a complaint, nor for disciplinary action, since they are clarifications or aspirational goals for Professionals. Enforcement will be determined by application of the Ethical Rules, and the official commentary will assist those seeking to conform their conduct to this Code and those charged with its enforcement. Violations of Ethical Rules may result in sanctions imposed pursuant to the procedures set forth in Section III of

this Code (Enforcement and Disciplinary Action). Section III provides due process to Professionals and protects the integrity and ensures the efficacy of this Code.

Professionals affirm their endorsement of the Code and acknowledge their commitment to uphold its principles by obtaining and subsequently renewing DBIA certification. Although the disciplinary provisions apply by their terms only to Professionals, other persons involved in the design-build industry, including members of DBIA who are not Professionals, are encouraged to comply with this Code.

Nothing in this Code is intended to raise the legal standard of care of any person or entity above that which is established by law.

Nothing in this Code shall obligate a Professional to take action that would be inconsistent with the Professional’s responsibilities to others as a fiduciary or that otherwise conflicts with statutes, common law, regulations or rules of professional responsibility applicable to the Professional.

## II. Ethical Rules and Comments

### Section 1: General Duties

**Rule 1.1.** Professionals will not knowingly violate the law or engage in conduct that they reasonably should know violates the law.

**Rule 1.2.** Professionals will not knowingly assist another person in conduct that violates this Code.

**Rule 1.3.** Professionals will comply with the legal and ethical requirements for all licensed services that they provide.

### Comments

**Comment 1-A.** Professionals should conduct all business matters with integrity and be leaders of character and honor not only in their contractual obligations, but also in their words and actions. This includes a demonstrated commitment to diversity, equity and inclusion to drive excellence and innovation.

**Comment 1-B.** Violations of law that constitute crimes or civil rights violations under state or federal law should not be considered violations of this Code until the Professional is found guilty or liable in a court of competent jurisdiction, after all appeals are exhausted. Misdemeanors that do not involve either dishonesty or conduct that is in contravention of this Code, such as routine traffic tickets, should not be grounds for disciplinary action.

**Comment 1-C.** Professionals are expected to take applicable laws and regulations into account when performing design-build services. Professionals may rely on the advice of other qualified persons, lawyers or consultants when interpreting such laws and regulations.

**Comment 1-D.** Professionals should avoid associating in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest conduct.

**Comment 1-E.** Professionals should not take action, or make public statements, intended to unfairly harm the reputation or business of others.

**Comment 1-F.** Professionals having knowledge of any violation of this Code are encouraged to promptly report to appropriate professional or public authorities, which includes DBIA, and to cooperate with such authorities in furnishing such information or assistance as may be required.

## Section 2: Truthfulness

**Rule 2.1.** Professionals will conduct themselves honestly and not engage in fraud or communicate deliberately false or misleading statements of material fact.

**Rule 2.2.** Professionals will not deliberately mislead or fail to make full and accurate disclosures, consistent with good industry practice and applicable law, of material facts reasonably requested in connection with:

- a. A design-build project or pursuit;
- b. An application for membership, designation, awards or other benefits granted by DBIA; or
- c. An application for professional or contractor license.

## Comments

**Comment 2-A.** Honesty, candor and transparency are critical components of this Code, and are mentioned intentionally in multiple Rules and Comments.

## Section 3: Conflicts of Interest

**Rule 3.1.** If a material conflict of interest arises before or during the performance of design-build services, Professionals must disclose it promptly to those parties affected and take appropriate action to resolve the conflict. Such action may include removing the cause of the conflict or obtaining written consent from such parties to continue services in spite of the disclosed conflict.

In the absence of appropriate resolution, Professionals will offer to withdraw from the conflict situation.

**Rule 3.2.** When a Professional is retained by agreement of the parties to a design-build project to serve in the role of a neutral decision-maker, the Professional will conduct him or herself in a fair and impartial manner.

**Rule 3.3.** Professionals making public statements on professional issues will disclose when they are being compensated for making such statements or when they have a material economic interest in the matter.

**Rule 3.4.** Professionals will not solicit or accept compensation from contractors, design professionals, design-build teams or suppliers in return for specifying or endorsing their proposals, products or services, unless such relationship is disclosed.

## Comments

**Comment 3-A.** As used in Rule 3.1, a material conflict of interest includes both a conflict: (i) identified by governing law or (ii) where the Professional's judgment could be affected by responsibilities or obligations owed to another project or person or by the Professional's own interests, unless all those who rely on the Professional's judgment consent after full disclosure.

**Comment 3-B.** Examples of neutral decision-making roles referred to in Rule 3.2 may include evaluating a party's performance, approving or rejecting work, approving submittals, certifying pay applications and rendering decisions on claims.

**Comment 3-C.** Professionals should be open and honest in their contractual relationships with others, informing Owners and design-build teammates of any circumstances that could lead to a conflict of interest or the perception of a conflict of interest.

**Comment 3-D.** In determining the appropriate course of action to resolve a conflict, one may take into account whether withdrawal by the Professional would constitute a breach of contract or otherwise terminate a relationship that would cause the Professional or others to incur material harm.

## Section 4: Influencing Decision Makers

**Rule 4.1.** Professionals will neither offer nor make any payment or gift to a private or public employee, agent or official with the intent of influencing that person's judgment in connection with an existing or prospective project in which the Professional is interested.

**Rule 4.2.** Professionals will not accept payments or gifts which are intended to influence their judgment in awarding contracts, making recommendations or exercising independent opinions.

## Comments

**Comment 4-A.** Nothing in this Code is intended to prohibit, when permitted by applicable law, campaign contributions or normal and customary hospitality or entertainment.

**Comment 4-B.** Professionals should be aware of and respect all regulatory restrictions or published policies of Owners that restrict their ability to accept gifts, entertainment or hospitality. Professionals should strive not to put Owners or their employees, agents or officials in awkward or illegal situations that might compromise that person's job or reputation or create legal liability.

**Comment 4-C.** Professionals should not put financial, legal or business pressure on an Owner's employees, consultants or representatives for purposes of influencing such person's decision-making to be based on inappropriate factors.

## Section 5: Marketing and Project Pursuit

**Rule 5.1.** Professionals will accurately represent to a prospective or existing client, employer or design-build teammate their qualifications, capabilities and experience.

**Rule 5.2.** Professionals will not intentionally mislead existing or prospective clients or design-build teammates about the results that can be achieved through the use of the Professionals' services; nor will Professionals state that they can achieve results by means that violate applicable laws or this Code.

**Rule 5.3.** Brochures, proposals or other materials prepared or used by Professionals incident to the solicitation of business will not misrepresent material facts regarding such Professionals or their employers, employees, associates or teammates.

### Comments

**Comment 5-A.** The Section 5 rules encourage Professionals to be truthful, honest and correct in presenting facts on qualifications, capabilities and experience, including clarifying who did what at prior engagements/projects.

**Comment 5-B.** Rule 5.1 is meant to ensure that Professionals not undertake projects beyond their professional capacity. Professionals venturing into areas which require experience or training they do not possess may obtain that expertise by additional education, training or through the engagement of persons, consultants and teammates with the necessary expertise.

**Comment 5-C.** When engaged in a competitive procurement process, Professionals should always compete fairly.

**Comment 5-D.** Professionals are encouraged to give proper credit to the

Owner, designer(s) and contractor(s) of any project depicted in marketing materials or proposals so as not to mislead the public, a client, a potential client or teammate as to the true source of the design and construction of a project for which the Professionals are taking credit.

## Section 6: Procurement

**Rule 6.1.** Professionals will conduct their bidding and procurement practices honestly and with fair dealing.

**Rule 6.2.** Professionals will not enter into any agreement or conspiracy to engage in price fixing, bid rigging or other anticompetitive conduct in violation of applicable law.

**Rule 6.3.** Professionals who participate as a voting or recommending member of a selection process will not thereafter participate as a member of the team or party selected without proper disclosure and consent.

**Rule 6.4.** A Professional will not participate on the selection committee for a design-build contract if the Professional is also employed by an offeror or competing design-build team involved in the project; nor when the Professional or any member of the Professional's immediate family holds a position with an offeror or competing design-build team as an officer, director, member, trustee, partner or the like; nor when the Professional owns or controls an interest in the competing entity.

**Rule 6.5.** A Professional acting as Owner or an Owner Advisor who conducts separate confidential discussions or interviews with competing design-build teams will treat each team fairly with respect to equal opportunity for discussion and clarification, and confidential information derived from proposals submitted by competing offerors will not be disclosed by such Professional to other competing offerors.

### Comments

**Comment 6-A.** Professionals should not participate on more than one design-build team competing for the same contract without disclosure to all design-build teams on which the Professionals are involved.

**Comment 6-B.** Professionals should make selections and award contracts in compliance with criteria and procedures required by law and as set out in solicitation documents. No improper factors or criteria should be used in the evaluation and scoring of the design-build proposals.

**Comment 6-C.** Except when all competing design-build teams are notified otherwise, Professionals acting on behalf of project Owners or users should only solicit proposals from design-build teams when the Professional reasonably expects to award a contract in response to proposals.

**Comment 6-D.** Professionals should clearly state any policies on conflicts of interest in the request for proposals issued to design-build teams or to Owner Advisors.

**Comment 6-E.** Professionals acting as consultants assisting an Owner in preparing a request for proposals should not participate on a design-build team unless: (i) the Owner gives informed consent; and (ii) the participation is not otherwise prohibited by law.

**Comment 6-F.** Professionals who are permitted to substitute a member of the design-build team after submitting a proposal or being awarded a contract should replace the original team member with a person or entity equivalent to the original team member.

**Comment 6-G.** Where the design-build solicitation requires a simultaneous two-part submittal including a technical submission (qualifications and design) plus a cost proposal, Professionals

acting as Owner or Owner Advisor should ensure that the evaluation of the technical submission is not inappropriately influenced by the cost proposal so as to taint the evaluation of a proposer's technical qualifications or design solutions.

## Section 7: Project Administration and Execution

**Rule 7.1.** Professionals will carry out their contractual duties and services in a competent manner.

**Rule 7.2.** Professionals will not materially alter the scope, quality or objectives of a project from what is contractually required without the client's knowledge and consent.

**Rule 7.3.** Professionals will not distort or misrepresent the quality, level of completion, performance data or other material facts regarding the work performed on a project.

**Rule 7.4.** Professionals will not falsify financial records or applications for payment.

**Rule 7.5.** Professionals will not improperly delay acceptance of work or services to deny financial benefit to which another person is lawfully entitled.

### Comments

**Comment 7-A.** Professionals should endeavor to achieve and maintain the inherent advantages of design-build delivery: efficiency, single-point responsibility, economy, timeliness, and quality.

**Comment 7-B.** Professionals should make payments consistent with the terms of written contracts and applicable laws.

**Comment 7-C.** Parties to a design-build contract should cooperate in sharing information requested by other parties.

## Section 8: Health and Safety

**Rule 8.1.** Professionals will refrain from conduct that jeopardizes the safety or health of any persons or the public.

**Rule 8.2.** If, in the course of work on a project, a Professional becomes aware of conduct involving his or her employer, design-build teammate, consultant or client, which the Professional knows violates building codes or other laws intended to protect public health and safety, or conduct (even though not a violation of law) which may, in the Professional's judgment, materially and negatively affect the health or safety of the public in connection with the project, the Professional will:

- a. advise against such conduct,
- b. refuse to consent to the conduct and
- c. report the conduct to the project Owner and other appropriate authorities, unless the Professional is able to cause the matter to be satisfactorily resolved by other means.

## Section 9: Confidentiality and Intellectual Property

**Rule 9.1.** Professionals will uphold the confidentiality of the procurement process where required.

**Rule 9.2.** Professionals will not utilize unique ideas, designs, concepts or intellectual property from competing design-build teams or from other third parties without the express consent of the author or the competing team, unless such use is permitted by law.

**Rule 9.3.** Professionals will not knowingly disclose confidential or proprietary information that would adversely affect their employer, client or design-build teammate(s). Professionals will maintain this confidence, except with consent of the party who revealed such information, unless required by this Code or applicable law.

## Comments

**Comment 9-A.** Professionals should safeguard the trust and confidentiality placed in them by their employers, offerors, clients and design-build teammates.

**Comment 9-B.** In all instances, these rules permit a Professional to reveal confidential information when a failure to do so would be unlawful or contrary to another ethical or legal duty imposed by law.

## Enforcement and Disciplinary Actions

The Grounds for Disciplinary Action, Disciplinary Actions and Enforcement are set out in Section III of the Code of Professional Conduct. Section III includes procedures for filing complaints, reviews, actions, appeals and related administrative procedures.

### 2024 Edition

This copy of the Code of Conduct is current as of February 2024. Contact DBIA's Executive Director for further information at (202) 682-0110.