

Watcha Gonna Do?

The Situation

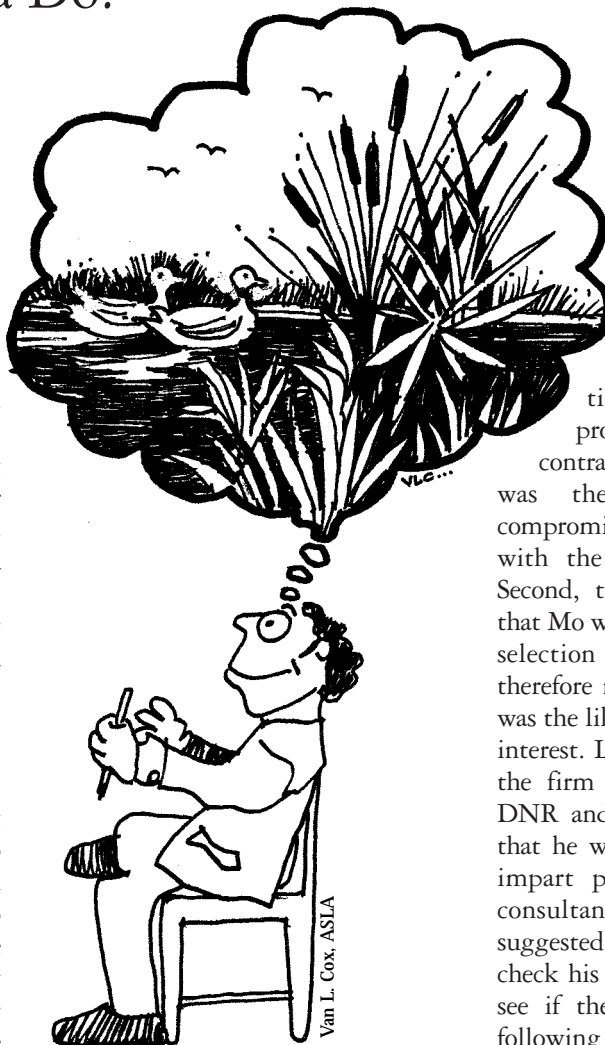
Mo Tivated, FASLA, heads the state's Department of Natural Resources (DNR) Planning and Design Branch. Mo, nearing retirement, has earned a reputation for his leadership in wetlands restoration and has had several offers to do consulting work for various firms undertaking wetlands restoration projects.

Due to downsizing, the state must now rely on outside consultants for many of its larger projects. Funding has just been appropriated to undertake a significant wetlands restoration project. Although a request for proposal (RFP) has not yet been issued, Mo agrees to provide consultation on an unrelated federal project to a well-respected firm that specializes in wetlands restoration.

The firm has had no previous contract work with the state DNR; however, Mo knows that the firm will soon be invited to compete for the DNR project. Mo believes he would be well suited to serve as a project manager for the firm, if only he can negotiate a lucrative consulting contract for the job with the firm before submitting his request for retirement.

Watcha Gonna Do?

Is Mo Tivated's decision to pursue work with the firm on an unrelated project in keeping with the provisions of the ASLA Code and Guidelines for Professional Conduct? Or is the fact that the DNR plans to approach the firm in the near future pose a conflict of interest? Isn't it reasonable to expect that Mo should be allowed to take the necessary steps to plan for his future before he retires from DNR? Before making any move, has Mo thought to check the agency's regulations to see if DNR prohibits consulting work for a specific period of time following a job change or retirement?



Recommendation of the Ethics Committee

The ASLA Code and Guidelines for Professional Conduct is arranged in three tiers of standards: canons, ethical standards and rules of conduct. Canons are broad principals of conduct. Ethical standards are more specific goals which members should strive to obtain. The rules are mandatory and violation is subject to disciplinary action.

Rule 1.103 of the ASLA Code and Guidelines for Professional Conduct states: "Members in government service shall not accept private practice work with anyone doing business with their agency, or with whom the member has

any government contract on matters involving applications for grants, contracts, or planning and zone actions."

The Ethics Committee found that Mo had not violated Rule 1.103 for several reasons. First, at the time that Mo accepted the project, DNR did not have a contract in place with the firm. He was therefore not injuring or compromising DNR by accepting work with the wetlands restoration firm. Second, the Ethics Committee noted that Mo was not a member of the source selection committee for DNR and therefore not in a position where there was the likelihood of a future conflict of interest. Last, Mo arranged to work for the firm after he had resigned from DNR and, in this way, he made sure that he would not be in a position to impart privileged information as a consultant. The Ethics Committee suggested, however, that Mo should check his agency's provisions closely to see if there was any period of time following his resignation during which he would not be allowed to appear before DNR as a consultant.

Editor's Note: One of the objectives of the ASLA Ethics Committee is to educate members about the ASLA Code and Guidelines for Professional Conduct. The code contains important principles relating to duties to clients and to members of the Society. Readers are invited to send their comments on cases appearing in LAND to Managing Editor, 636 Eye Street, N.W., Washington, D.C. 20001-3736 or e-mail to bwelsh@asla.org. Members are invited to submit questions regarding ethical matters along with supporting data to Allen Hixon, FASLA, Ethics Committee Chair, c/o ASLA 636 Eye Street, N.W., Washington, D.C. 20001-3736.