



# PRACTICE ADVISORY

## PROFESSIONAL CONDUCT BETWEEN SUBMITTING PROFESSIONALS AND AUTHORITIES HAVING JURISDICTION

Version 1.0, September 11, 2023

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This practice advisory has been issued for registrants and registrant firms of Engineers and Geoscientists BC, to clarify the expectations of professional conduct between design professionals submitting engineering/geoscience work (Submitting Professionals) and Authorities Having Jurisdiction (AHJs) during approval and/or submissions processes such as building permit or development applications. An AHJ is defined as in the *BC Building Code*: the governmental body (usually municipal) responsible for the enforcement of any part of the BC Building Code or the official or agency designated by that body to exercise such a function.

### BACKGROUND

This practice advisory is intended to address common communication challenges that arise between Submitting Professionals and AHJs during the approval and/or submissions processes. Engineers and Geoscientists BC is aware of the following scenarios that can commonly create friction points, and has provided professional practice considerations to help resolve them:

- **Scenario 1:** The AHJ's process requirements and Engineers and Geoscientists BC requirements are incompatible.
- **Scenario 2:** Submitting Professional provides incomplete, disjointed, or disorganized plans and documentation to the AHJ.
- **Scenario 3:** Technical or specific direction is provided by the AHJ during regulatory review.
- **Scenario 4:** Submitting Professional is not responsive to AHJ requests for additional documentation.
- **Scenario 5:** Submitting Professional is unaware of process requirements, there is a lack of clarity in the AHJ's requirements, or there is inconsistency in application of requirements.
- **Scenario 6:** The quality of work or qualifications of the Submitting Professional is questioned.

## INTRODUCTION

Design professionals generally have regular interactions with regulatory authorities – including AHJs – as part of approval and submissions processes. In situations where Submitting Professionals are required to submit deliverables to AHJs for approval, there are times when communication between relevant parties may break down. Communication breakdowns can lead to tension between the involved parties, and subsequent project delays. Clarity on expectations and obligations of professional conduct in these situations can improve the working relationship between the relevant parties and may lead to a more efficient approvals process.

## APPLICATION OF THIS ADVISORY

This practice advisory has been specifically written to apply to interactions between Submitting Professionals and AHJs through formal review or approval processes.

Engineers and Geoscientists BC recognizes that representatives of regulatory authorities may or may not be professional registrants themselves; this advisory is primarily aimed at professional registrants submitting documents to AHJs but much of the content will apply to registrants working for AHJs as well. Engineers and Geoscientists BC also acknowledges that many AHJs are registrant firms with Engineers and Geoscientists BC. This advisory is not intended to limit the authority that a qualified Building Official has under the *Building Act* or Vancouver Charter when making decisions on behalf of the AHJ.

Similarly, Engineers and Geoscientists BC recognizes that this guidance may be applicable to other regulatory authorities in sectors outside of the building code sector. The general guidance of this advisory may be appropriate to apply in other approval or submissions processes not expressly captured here.

## ETHICAL PRACTICE

Registrants of Engineers and Geoscientists BC are obligated to adhere to the [Code of Ethics](#) at all times. The Code of Ethics principles most related to communication are Principle 7 (*provide professional opinions that distinguish between facts, assumptions, and opinions*), Principle 10 (*present clearly to employers and clients the possible consequences if professional decisions or judgments are overruled or disregarded*), and Principle 13 (*conduct themselves with fairness, courtesy, and good faith towards clients, colleagues, and others, give credit where it is due and accept, as well as give, honest and fair professional comment*). Principle 3 (*have regard for the common law and any applicable enactments, federal enactments, or enactments of another province*) also applies to the content of this advisory.

Qualified Building Officials and other professionals (i.e., Technologists) are similarly governed by their respective Code of Ethics as set out by their regulatory body.

## TYPES OF REVIEW PROCESSES

All parties involved with the submission of engineering or geoscience documentation should understand the intent of the submission as well as the mandate and/or limitations of the regulatory

authority to provide direction. To help outline this concept further, the following types of reviews are defined:

**Regulatory Review:** A review of the work submitted by a Submitting Professional conducted by representatives of a regulatory authority or AHJ. This is typically done as part of a regulatory process created through regulation or legislation, such as a permit application. The primary intent of a regulatory review is to assess compliance or coordination with regulations, bylaws, or standards administered by the regulatory authority or AHJ. For regulatory reviews of building construction, the review includes assessing compliance with the *BC Building Code* or Vancouver Building By-law and related documents. There are various objectives for reviews done by regulatory authorities, including approving, reviewing, and accepting. During the regulatory review, to demonstrate compliance with legislation, regulation, or bylaws, the AHJ may require an additional peer review of the Submitting Professional's work.

As stated in the *Building Act*, qualified Building Officials are responsible for deciding on behalf of the AHJ whether or not a matter complies with the applicable building construction regulation (*BC Building Code*). During a regulatory review, a qualified Building Official may review and assess calculations, input data, methods, and project boundaries to determine compliance with regulations as defined in the *Building Act*.

Regulatory reviews in the context of this advisory are a review of the work against permit requirements and therefore can be conducted by qualified Building Officials, and other exempt persons established under the *Building Act*.

**Technical Review (including peer review and independent review):** A detailed review of the work of a professional registrant to confirm that it meets objectives and is aligned with current standards of practice. This may include a review of project boundaries, assumptions, input data, processes, methods, results, conclusions, and possible omissions or exclusions that require professional judgement beyond demonstration of compliance with applicable codes and standards. Peer reviews—as defined in *Professional Practice Guidelines – Peer Review* (Engineers and Geoscientists BC 2022)—and independent reviews—as defined in the Engineers and Geoscientists BC Bylaws—are considered technical reviews.

Technical reviews can only be conducted by an appropriately qualified professional registrant of Engineers and Geoscientists BC.

## EXPECTATIONS OF PROFESSIONAL PRACTICE

### GENERAL RESPONSIBILITIES OF THE SUBMITTING PROFESSIONAL

#### PRIOR TO DOCUMENT SUBMISSION

When submitting documentation for regulatory review, a Submitting Professional must adhere to the submission requirements of the AHJ, understanding that the AHJ typically has the sole

authority to define their submission requirements and expectations related to regulatory compliance. A Submitting Professional also has the obligation to adhere to the *Professional Governance Act*, Engineers and Geoscientists BC Bylaws (including quality management standards), Engineers and Geoscientists BC Code of Ethics, and other published professional practice guidance. It is the Submitting Professional's responsibility to have regard for current regulations and standards of practice, in addition to the AHJ's submission requirements.

Understanding the AHJ's submission requirements by researching websites and bylaws and being proactive in requesting clarification as needed prior to submission can lead to a more effective and streamlined approval process. By working to build a respectful relationship, a Submitting Professional may gain a better understanding of an AHJ's submission requirements and can improve the quality of future submissions.

In accordance with the Engineers and Geoscientists BC Bylaws, Submitting Professionals must conduct a documented risk assessment prior to the initiation of a professional activity or work to identify whether a professional activity or work is high-risk, and determine if an independent review is required. Independent reviews are required on all structural designs, regardless of risk, in accordance with the Bylaws. Should an independent review be required, this must be completed prior to implementation of the work.

## **FOLLOWING DOCUMENT SUBMISSION**

Submitting Professionals should recognize that the regulatory interpretations of AHJ representatives may differ from their own. Regulatory reviews are a standard part of professional practice, and Submitting Professionals must be prepared for and open to receiving feedback from the AHJ on their submissions and revisiting the submission documentation as needed.

A regulatory review is not a substitute for documented checking or an independent review (both of which are quality management standards required by the Engineers and Geoscientists BC Bylaws).

The outcome of a regulatory review is typically in the form of a report of non-conformances with regulatory requirements. While an AHJ representative can comment on whether a Submitting Professional's submission meets the technical requirements of regulations (as substantiated by specific reference to codes, bylaws, and standards), a regulatory review report should not provide technical direction on how to rectify the issues identified, as these directions may constitute the practice of professional engineering or professional geoscience. If suggestions or opinions are provided, they should be to encourage dialogue.

The Submitting Professional is encouraged to communicate with the AHJ after receiving feedback. The intent of this communication should be focused on clarifying the requirements related to the submissions and understanding the outcome of the regulatory review, rather than challenging the reviewer's evaluation. It is the Submitting Professional's responsibility to assess the comments, determine whether to address or incorporate them into the submission documents, and ultimately decide how to do so to meet regulatory requirements—both those applicable to the regulatory review, and those of Engineers and Geoscientists BC. In most cases, there are multiple ways to resolve an issue or comment. The Submitting Professional should be prepared to acknowledge the feedback and engage in dialogue with the AHJ to ultimately find resolution.

The Submitting Professional must make themselves available to respond to feedback in a timely manner; this responsibility cannot be delegated to contractors, subordinates, administrative staff, or others. The Submitting Professional retains professional responsibility for the work being reviewed;

the act of conducting a regulatory review or incorporating changes following regulatory review does not indicate that the reviewing party is taking professional responsibility for the work.

## POTENTIAL COMMUNICATION CHALLENGES DURING REVIEW / APPROVAL PROCESSES

The remainder of this practice advisory addresses specific communication-related challenges that may arise between Submitting Professionals and AHJs during approval and/or submissions processes.

### **SCENARIO 1: AHJ'S PROCESS REQUIREMENTS AND ENGINEERS AND GEOSCIENTISTS BC REQUIREMENTS ARE INCOMPATIBLE**

Inconsistencies or conflicts between the AHJ requirements and the Engineers and Geoscientists BC requirements as contained in the *Professional Governance Act* and Bylaws, are sometimes encountered during submission processes.

When AHJs are establishing and/or reviewing their application/submission process, AHJs are encouraged to understand that professionals have obligations beyond those contained in the legislation that creates the approval and/or submissions processes and they should align their submission requirements accordingly. When AHJ processes call for Submitting Professionals to act in a manner contradictory to their obligations under the *Professional Governance Act* and Bylaws, it places Submitting Professionals in a difficult situation that requires time and effort to resolve, contributing to project delays and increasing overhead for all involved parties.

Some of the requirements of Engineers and Geoscientists BC can be found in the Quality Management Guides and, for specific areas of practice, in Professional Practice Guidelines published by Engineers and Geoscientists BC.

Some common examples of AHJ requirements that go against the *Guide to the Standard for Authentication of Documents* (Engineers and Geoscientists BC 2023) include:

- requesting authentication of documents that do not contain engineering or geoscience information;
- not allowing for multiple professionals to authenticate documents in multi-disciplinary projects; and
- requesting multiple redundant formats of authentication (i.e., requiring a wet seal in addition to a digital seal).

The Submitting Professional may use the content of this advisory or relevant Quality Management Guides and Professional Practice Guidelines to support their response to an AHJ where AHJ requirements may be contradictory to requirements created by the *Professional Governance Act* or by Engineers and Geoscientists BC.

### **SCENARIO 2: SUBMITTING PROFESSIONAL PROVIDES INCOMPLETE, DISJOINTED, OR DISORGANIZED PLANS AND DOCUMENTATION TO THE AHJ**

Incomplete, disjointed, or disorganized plans and documentation submitted by the Submitting Professional can cause confusion and delay.

Submitting Professionals are reminded to follow the guidance included in *Practice Advisory: Issued for Building Permit Documents* (Engineers and Geoscientists BC 2022). Plans submitted to an AHJ in support of an application for a building permit must:

1. be complete for their intended purpose;
2. substantially comply with applicable codes, standards, and enactments respecting safety (except for construction safety aspects);
3. contain sufficient detail to enable the design to be checked by another engineering professional to establish conformance to applicable codes;
4. have undergone internal and external checks and reviews as required by Engineers and Geoscientists BC Bylaws; and
5. be authenticated by the professional(s) of record.

Registrants and AHJ representatives are encouraged to review the *Practice Advisory: Issued for Building Permit Documents* (Engineers and Geoscientists BC 2022) for additional details. Guidance on design requirements for structural, civil, mechanical, and electrical disciplines are covered *Building Permit Level of Design Recommendations* (ACEC-BC 2021).

Submitting Professionals are encouraged to confirm specific submission requirements with the AHJ prior to permit application and submission.

### **SCENARIO 3: TECHNICAL OR SPECIFIC DIRECTION PROVIDED BY AHJ DURING REGULATORY REVIEW**

Sometimes regulatory reviewers provide technical feedback or specific direction on submitted work.

AHJs define their own submission and approval procedures and requirements with respect to their governing legislation or regulation and have the authority to determine how they wish to verify regulatory compliance. The intent of the AHJ's regulatory review is to provide information on conformance with regulatory requirements; therefore, requests for information, notification of non-conformances, and general submission feedback should be substantiated with a current reference from applicable bylaws, codes, standards, or policies. The AHJ reviewer may be inclined to expand upon this and offer suggestions on how the submission documents can better meet the regulatory requirements but should leave the specific engineering/geoscience decision-making to the Submitting Professional, without providing specific direction. Ultimately, the Submitting Professional retains responsibility for the engineering/geoscience judgements and decisions incorporated into the submission documents.

There may be instances when feedback from a regulatory review falls outside of the definitions of a regulatory review outlined above. For example:

- technical direction is provided during a regulatory review
- technical feedback is provided without substantiation or references
- technical direction is offered by a non-registrant, or by a registrant without the appropriate training, experience, or competency
- specific direction is given on how to address non-compliance or non-conformance

Providing technical direction on engineering or geoscience work constitutes the practice of professional engineering or geoscience. Only professional registrants qualified through education, training, and experience in a particular area of practice are permitted to make these judgements or decisions on the technical content of engineering or geoscience work. Anyone providing technical direction should carefully consider the extent to which they may be taking responsibility for the work and any associated liability.

Once feedback has been received, it is the Submitting Professional's responsibility to undertake a respectful dialogue with the AHJ to discuss the feedback. In many cases, it may be beneficial for the Submitting Professional to request additional information or clarification. If the Submitting Professional and the AHJ reviewer cannot come to an agreement on a path forward regarding a particular issue, some options to consider are engagement of a third-party technical opinion through a peer review process, or utilization of an external adjudication bodies, such as the Building Code Appeal Board.

AHJs are encouraged to develop clear policies and procedures for regulatory reviewers to establish roles, responsibilities, and qualifications, and to avoid inconsistencies between reviews.

#### **SCENARIO 4: SUBMITTING PROFESSIONAL IS NOT RESPONSIVE TO AHJ REQUESTS FOR ADDITIONAL DOCUMENTATION**

Engineers and Geoscientists BC is often approached to support AHJs in their requests for additional supporting documentation from Submitting Professionals. As mentioned above, AHJs define their own submission or approval procedures and requirements with respect to their governing legislation or regulation. In order to effectively carry out their mandate, AHJs may request documentation from Submitting Professionals. This may include records of field reviews, letters of assurance, documented checks, supporting documentation, etc.

In the case of field reviews, documented checks, and other quality management requirements, the obligation to complete these quality management steps lies within the Bylaws of Engineers and Geoscientists BC, but there is generally no requirement to submit these to the AHJ. However, the administrative aspects of the permitting process are determined by the AHJ, and it is not a contravention of Engineers and Geoscientists BC Bylaws requirements for the AHJ to request records related to these requirements.

For independent reviews of structural designs specifically, Submitting Professionals must provide a copy of the documented record of the independent review to the AHJ if requested, as captured in Bylaw Section 7.3.5(3)(f). For all other submission requirements, Submitting Professionals should be aware of the requirements of the authorization or application process (see Scenario 5 below) and follow it accordingly.

#### **SCENARIO 5: SUBMITTING PROFESSIONAL IS UNAWARE OF PROCESS REQUIREMENTS, OR THERE IS LACK OF CLARITY IN THE AHJ'S REQUIREMENTS, OR INCONSISTENCY IN APPLICATION OF REQUIREMENTS.**

Another challenge that is often encountered during submission processes is when Submitting Professionals are unaware of process requirements. While AHJ submission requirements are typically established in legislation or bylaw, when these requirements are not clear, or when submission requirements are interpreted and applied differently across different personnel and

projects, it can result in delays for the project and increased time invested to clarify the submission requirements.

Submitting Professionals are required to follow Principle 3 of the Code of Ethics and “*have regard for the common law and any applicable enactments, federal enactments, or enactments of another province*”. It is the Submitting Professional’s responsibility to be knowledgeable about the AHJ’s submission requirements. This may involve visiting the AHJ’s webpage, viewing publicly available building bylaws and associated guidance and resources, or contacting the AHJ directly for clarification.

AHJs are encouraged to consolidate and clearly present the requirements and expectations that align with their legislative authority. When the submission requirements, policies, and procedures are clearly documented and well understood by all parties at the outset of the submission process, the likelihood of miscommunications, rework, and/or delayed projects can be decreased.

In addition to having clear submission requirements, it is equally helpful for the AHJ to be consistent in their review and feedback process. Providing consistent feedback in an impartial manner allows both parties to engage in courteous discussion, share expectations and perspectives, and come to a mutually agreeable solution.

## **SCENARIO 6: QUALITY OF WORK OR QUALIFICATIONS OF SUBMITTING PROFESSIONAL ARE QUESTIONED**

Finally, there are instances where AHJs, upon regulatory review of the Submitting Professionals work, question the quality of the work or the qualifications of the Submitting Professional.

Regulatory feedback may indicate that the regulatory reviewer considers the submission technically inadequate or lacking in quality. Again, the Submitting Professional is responsible for engaging in respectful dialogue with the AHJ to discuss feedback. Many such situations can be resolved by the Submitting Professional taking one or more of the following steps:

- Demonstrating the quality management process of the Submitting Professional, their firm, and their deliverables (referring to Engineers and Geoscientists BC Quality Management requirements contained in Bylaw Section 7.3, or internal or external requirements as needed).
- Further substantiating necessary aspects of the work in question (such as further explaining the soundness of the approach or methodology used, providing supporting information or data, demonstrating code compliance, or providing information on past projects where applicable).
- Demonstrating the skill/experience of the Submitting Professional by providing evidence of training, education, or experience.

In addition to this, Engineers and Geoscientists BC provides a public registry of registrants and their declared areas of practice; AHJ representatives are welcome to refer to the registrant directory for information on the declared areas of practice of an individual or firm.

If the regulatory reviewer has questions about and/or would like to confirm the appropriateness of the technical engineering or geoscience context, AHJs and Submitting Professionals may wish to consider a peer review of the Submitting Professional’s work as a potential option. See the

Professional Practice Guidelines - Peer Review (Engineers and Geoscientists BC 2022) for more information.

If the regulatory reviewer has concerns about the ongoing professional practice of a registrant, they may consider submitting a complaint to Engineers and Geoscientists BC.

## RELATED DOCUMENTS

1. Engineers and Geoscientists BC *Quality Management Guides*:
  - a. Authentication of Documents
  - b. Documented Independent Review of Structural Designs
  - c. Documented Independent Review of High-Risk Professional Activities or Work
2. Engineers and Geoscientists BC *Practice Advisory: Issued For Building Permit Documents*
3. Engineers and Geoscientists BC *Professional Practice Guidelines - Peer Review*
4. Association of Consulting Engineering Companies British Columbia (ACEC-BC) *Building Permit Level of Design Recommendations: Structural, Civil, Mechanical, Electrical*.
5. Professional Engineers Ontario (PEO) Guideline: *Professional Engineers Reviewing Work Prepared by Another Professional Engineer*.

## VERSION HISTORY

VERSION NUMBER	PUBLISHED DATE	DESCRIPTION OF CHANGES
1.0	September 11, 2023	Initial version.

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