

February 17, 2017

RE: EAOR 41 Policy Advisory Request Regarding Registration Requirements for Subsidiary or Branch Companies of a Parent Company

Dear Anonymous:

The Texas Board of Professional Engineers (Board) met in a public session on February 16, 2017 and considered your request. After discussion, the Board determined that the hypothetical scenarios presented may require a case by case analysis depending on the specific circumstances. Nonetheless, the Board determined they are generally answered by the Texas Engineering Practice Act (Act), Board Rules (Rules), and Policy Advisory Opinions that define the registration requirements for an entity to practice engineering and the firm registration procedures.

*Scenario/Question*

*A Parent Company X has several companies A, B, C, & D. Company A has a business engineering firm license in Texas, and other foreign companies B, C & D don't have a business engineering license in Texas. Companies B, C, & D aren't listed as subsidiary and/or branch offices on the Texas firm registration of Company A and are all independent and separate business entities under the overall parent company X.*

*Question 1:*

*May companies B, C, & D offer or provide any consulting engineering services for company A in Texas if they aren't a subsidiary/branch offices of licensed company A?*

Answer:

This question is addressed in the Act § 1001.405 (a) and (b). If the entity is not registered with the Board, it may not practice engineering. If companies B, C, & D were considered branches or subsidiaries of A, then they could be listed with the current firm registration requirements for Company A (Rule 135.3 (b)(4)) and the practice of engineering would be permitted.

*Question 2:*

*May company A offer or provide any consulting engineering services for projects in Texas and use any of the companies B, C & D for engineering services for these projects in Texas?*

Answer:

This question is addressed in Rule 137.33 (b) and such activities are allowed under the direct supervision requirements as defined in Rule 131.81 (10) and Policy Advisory Opinion 34 with analogous contract employee requirements.

*Question 3:*

*Is company A required to have a regular full-time licensed professional engineer employee licensed in Texas, perform or directly supervise all of the engineering for a project in Texas (i.e.; during the bidding process, conceptual-preliminary engineering and final engineering)?*

Answer:

This question is addressed in the Act (§ 1001.002 (2) and 1001.405 (e)(3)). Assuming Company A is not exempt per the Act § 1001.051 – 1001.066, and the activity is considered the practice of engineering (§ 1001.003), then the engineer is required to be licensed in the State of Texas. The Act states the engineering services provided by a company must be personally performed or directly supervised by a professional engineer that is a regular full time employee of the company.

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Question 4:

*When company A is offering or providing services with different engineering disciplines for a project in Texas, are Texas PEs required to perform or directly supervise work for each individual engineering specialties?*

Answer:

Assuming Company A is a registered entity with the Board, this question is answered with the Rules. An engineer shall only practice in the area of competence (Rule 137.59).

Question 5:

*Do companies B, C & D who aren't listed as subsidiary and/or branch offices on the Texas firm registration of company A and are all independent and separate business entities under the overall parent company X required to have separate business engineering licenses to offer or provide engineering services in Texas?*

Answer:

This question is answered by the Rules. If company B, C or D practice engineering in Texas then they need to be registered themselves or as a listed branch/subsidiary of a licensed firm or supervised by a firm and engineer that is licensed and registered with the Board (135.3 (b)(4) and 137.73 (a)(5)).

Please do not hesitate to contact our office, should you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is fluid and cursive, with the first name "Lance" and last name "Kinney" clearly distinguishable.

Lance Kinney, PhD, P.E.  
Executive Director

LK:DAD:asm