Practice Note: Withholding Letters of Certification for the Purpose of Procuring Payment

Revisions approved by Investigation Committee, June 15, 2021

The Investigation Committee has received questions about the appropriateness of withholding a letter of certification for the purpose of procuring payment for a project. With respect to adherence to Engineers Geoscientists Manitoba (EGM) Code of Ethics, there is no ethical obligation for any member to continue to provide services if the contract with the client, or the client's agent, has been properly suspended. To ensure that the cessation of services is conducted properly, EGM's practitioners have a duty to ensure the following:

1. For the design of buildings, the contract between a member or a holder of a certificate of authorization and its client shall contain a provision for suspension of services, including a prescribed notification period.
2. Members and holders of certificates of authorization shall take appropriate steps to
   a. determine whether or not the suspension of services presents safety concerns, and
   b. protect the public, including construction site personnel, by notifying them of the safety concerns.
3. The Authority Having Jurisdiction shall be notified of the suspension of on-site services and of safety concerns that have been identified.

Practitioners and holders of certificates of authorization may suspend their contract as per the contract terms but should continue to provide services during the notification period identified in the contractual agreement, as identified in point 1 above.

In the event there are contractual issues, including financial issues, between the client and practitioner, channels for independent assessment of these issues exist, including the option for civil action. EGM practitioners should not withhold letters of certification for the purpose of guaranteeing payment from their client.
Failure to adhere to these recommendations may expose the member to a complaint of professional misconduct.