



Negotiating Multiple Offers

Question: I received an offer from a buyer's agent on one of my listings. Subsequently, I was contacted by a second agent who asked if there were any offers on the listing. As I had the seller's approval, I informed the second agent that I'd just received an offer. The second agent asked me to disclose the terms and conditions of the offer. I told the second agent that in accordance with Article 1 of the Code of Ethics, I could do so only with written approval from my seller client.

My interpretation of Standard of Practice 1-13(5) is that buyer's agents must inform their clients that the terms of their offer may be shared with other potential buyers. In my opinion, this Standard of Practice shouldn't be read as encouraging REALTORS® (buyer's agents) to disclose details of offers to other REALTORS® or their buyer clients.

Answer: You're correct in your understanding of Standard of Practice 1-13(5). This standard sets out five issues buyer's agents must discuss with their potential buyer clients when entering into a buyer representation relationship. One of these is "the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties." Without one of these limitations, it isn't a violation of the Code of Ethics if seller's agents follow the legal instruction of their seller client to disclose the existence and terms of any offers.

That said, it should be understood that nothing in the Code encourages or requires such disclosures. The old saying "just because you can doesn't mean you should" is relevant here. A seller's agent should carefully discuss negotiation options with the sellers so that the sellers understand whether disclosure is in their best interest. For an excellent, comprehensive discussion of negotiating multiple offers, see Appendix IX to Part Four of the Code of Ethics and Arbitration Manual, "Presenting and Negotiating Multiple Offers."

Courtesy of the National Association of REALTORS®, By Bruce Ayt