The Interface Between Risk and Ethics

Minnesota Energy Expo
September 18, 2017
Risk and Ethics

• How are Risk and Ethics defined?
• What are likely sources of risk/ethical problems?
• How are they related?
• How can you create a viable strategy that accounts for both?
Is Ethics an Industry Wide Problem?

• If so, why?
Is Ethics an Industry Wide Problem?

- Very personal
- Extremely difficult to quantify
- Is often “flexible” to an individual
Fundamental Truths about Behavior

• This is a people based industry
• It is all about long-term relationships
• Mutually meeting expectations is the key to long-term relationships (win/win)
Why Focus on Expectations?

‘Corporate Culture and Performance’ by John Kotter and James Heskett (2005)

Revealed that businesses that focus obsessively on meeting the needs of customers:

- Revenues increase 4 times faster
- Job creation is 7 times faster
- Owner equity grows 12 times faster
- Profit performance is 750% higher
Risk and Ethical Boundaries

• We generally have a problem when behavior
  – Fails to differentiate between ‘can’ and ‘should’ (Technical)
  – Is only about the minimum standard (Law)
  – Is only about risk avoidance (Ethics)
Can We Legislate Ethics?
Efforts at Legislating Ethics

• Codes and regulations
• Licensing
• Codes of Ethics
  – ASHRAE Code of Ethics
ASHRAE Code of Ethics

• Series of case studies
  – Was this ethical behavior?
  – Does the ASHRAE Code of Ethics address this situation?
  – How would you apply the ASHRAE Code of Ethics to produce ethical behavior?

• Case Study #1 - Can we do something versus should we do something (technical problem)
Boundary of Risk and Ethics

• Case Study #1
• Was this ethical behavior?
• Does the ASHRAE Code of Ethics address this situation?
• How would you apply the ASHRAE Code of Ethics?
ASHRAE Code of Ethics

• Series of case studies
  – Is this ethical behavior?
  – Does the ASHRAE Code of Ethics address this situation?
  – How would you apply the ASHRAE Code of Ethics to produce ethical behavior?

• Case Study #2 – Ethics as only a minimum standard (Legal problem)
Boundary of Risk and Ethics

• Bid Shopping
  – What is it?
  – Is it legal?
  – What is wrong with it?

“I’m not out of this until the fat lady sings”
“It's just like buying a car. A guy like you, you probably buy a Jaguar. Well, you ask the dealer what they want for the car. They say $50,000. You know you will never pay that for the car.”

Developer/General Contractor
Tilt-up v. Star City Developers
Boundary of Risk and Ethics

• Case Study #2
• Is this ethical behavior?
• Does the ASHRAE Code of Ethics address this situation?
• How would you apply the ASHRAE Code of Ethics to produce ethical behavior?
ASHRAE Code of Ethics

• Series of case studies
  – Is this ethical behavior?
  – Does the ASHRAE Code of Ethics address this situation?
  – How would you apply the ASHRAE Code of Ethics to produce ethical behavior?

• Case Study #3 – Behavior is only about risk avoidance (Ethical problem)
Documentation

- Documentation could have prevented a claim

Werner Const. Vs. City of York, NE
* Put Rip-Rap back into place at Drop structure on Nodet.
* Replace Inlet throat on the West side of Mainz at Nodet Rd., so that water don't run past Inlet.
* Clean-up area of water Building Road.
* Adjust water Valve Box to Grade at the Cul-de-Sac of 11th Street. wcc (under slab) @ cul-de-sac Radius.
* Clean out all Inlets and Flush Storm Sewer Pipe.
* Make Sure all Outlet Decks Have Manhole Covers on them. 19 & Blackburn, Clearview at Mainz, Industrial Park.
- Pick up debris
- Get all equipment out of industrial park
- Shape old road & runway to pick up rubble, old pile in cornfield
- 5 gal bucket on @ end of colonnade
- 1st manhole No. 25 on Nebraska needs a chain link
- Will not charge liquidated damages since street opened
Boundary of Risk and Ethics

• Gray areas
  – Religious/political
  – Safety Factor and design
  – Overcharging on change orders
Right to Life: Don’t do it

Pro-life group writes to contractors that could be involved in Planned Parenthood project.

By JoANNE YOUNG
Lincoln Journal-Star

Lincoln Right to Life has sent letters to about 150 area subcontractors asking them to decline any request to work on Planned Parenthood of the Heartland’s building renovation project.

Planned Parenthood announced in May it would consolidate its two Lincoln locations into one comprehensive health center at 48th Street and Old Cheney Road.

Services offered at the 1,800-square-foot health center, which is being renovated, would include contraception, annual check-ups, sexually transmitted disease testing and treatment, pregnancy testing, sexual assault exams, abortion and adoption services.

It is the abortion services that prompted the letters from Lincoln Right to Life.

A June 21 letter signed by Lincoln Right to Life Board President Matt Tapling notified subcontractors that Planned Parenthood planned to perform abortions in the building and implored them to decline to work on the project.

Another letter was sent to subcontractors the organization believes are working at the site, asking them to confirm they are.

“We are trying to make sure they are crystal clear on the role Planned Parenthood plays within the abortion industry,” Tapling said.

He said Lincoln Right to Life was awaiting confirmation but then would “take action.” He would not elaborate, but he said a number of actions could be taken.

“We would like to have an open dialog with them,” he said.

One option could be a boycott, but Tapling said he would neither confirm nor deny that would be chosen.

The Lincoln Right to Life website lists ways to help disrupt the project, however, including refusing to shop or patronize businesses involved in the Planned Parenthood move and...
ASHRAE Code of Ethics

• Series of case studies
  – Is this ethical behavior?
  – Does the ASHRAE Code of Ethics address this situation?
  – How would you apply the ASHRAE Code of Ethics to produce ethical behavior?

• Case Study #4 – Behavior is only about risk avoidance (Ethical problem)
Risk and Ethical Boundaries

• Does legislating ethics work?
  – Laws and Codes
  – Licensure
  – Codes of Ethics
Risk and Ethical Boundaries

• How do you successfully navigate the risk/ethics boundary in our industry?
  – Hire the right people
  – Hire the right clients
Risk and Ethical Boundaries

- What are some common strategies to hire the right person?
Risk and Ethical Boundaries

- Hire proven employees with a strong ethical track record
- Internships
- Promote/support strong, ethical decision making in your firm
- Others?
Risk and Ethical Boundaries

• Ethical decision making
  – Accept the existing of a problem
  – Attain the correct perspective
  – Gather facts
    • Separate fact from fiction
    • Separate symptoms from problems
    • Separate the person from the problem
Risk and Ethical Boundaries

• Ethical decision making (Con’t)
  – Identify the type of problem
    • Technical problem?
    • Legal problem?
    • Ethical problem?
Risk and Ethics Boundaries

• Ethical decision making (Con’t)
  – Consider duty to self
  – Consider duty to team
  – Consider duty to public
Risk and Ethical Boundaries

• Ethical decision making (con’t)
  – List alternatives
    • Think outside the box
    • TANSTAAFL
  – Always look for the second right answer
  – Make a decision!
Risk and Ethical Boundaries

• How do you hire the right client?
  – Creating viable strategies to account for both risk and ethics
Risk and Ethical Boundaries

• Risk management steps
  – Identify risk
  – Quantify risk
  – Account for risk
Risk and Ethical Boundaries

• Rules of risk management
  – Don’t risk more than you can afford
  – Don’t risk a lot for a little
  – Know the odds
Risk and Ethical Boundaries

• How do you incorporate an ethical background in your risk management program?
Accounting for Risk and Ethics

• Go/No Go decision making procedure
  – Unique to every firm
  – Prior to the decision to compete
  – Must be in writing
  – On every project

• Why would you acquire this project?
Go/No Go Decision Making

• Step #1
  – Identify the risks
  – What are the big filter questions you should ask yourself after determining the client’s expectations?
Types of Risks

- Financial
- Operational
- Hazards
- Strategic

How not to set a boiler.
Financial Risks

• What are some of the financial risks that you would typically find on a project?
Operational Risks

- What are some of the operational risks that you would typically find on a project?
Environmental Risks

• What are some of the environmental risks that you would typically find on a project?
Strategic Risks

• What are some of the strategic risks that you would typically find on a project?
Risk

• If you are not focusing on profitable behavior:
  – Acquiring and developing the best customers
  – Generating long-term relationships
  – Obsessively meeting client expectations

Risk management isn’t all that effective
Accounting for Risk and Ethics

• How do you identify risk in client behavior?
Ranking the Client
Go/No Go Decision Making

• Step #2
  – Quantify the risks

• How do you quantify risks and behavior?
Examples

- Include client/AE/contractor behaviors
- Include all other reoccurring risks
- Assume the highest risk is equal to 5, the next highest, 4, etc.
- What is your range for acceptable risk?
  - What is your RLH?
## Examples

### Strategic Issues

<table>
<thead>
<tr>
<th>Issues</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>Does the project fall into our existing project niches?</td>
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<td>Are there expanded service opportunities?</td>
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<td>Does the project aid geographic expansion?</td>
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<td>Does the project help balance our market mix portfolio?</td>
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<td>Does the project have outstanding public relations value?</td>
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</table>

### Client Issues

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<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have we devoted time to pre-selling?</td>
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<td>Do we have experience with this client?</td>
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<td>Is the client financial position adequate?</td>
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<tr>
<td>Does the project have a 60% chance (or better) of being funded?</td>
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</tbody>
</table>

Source: Marketing Handbook for the Design and Construction Professional
## Examples

### Concordia Drama and Music Addition

**Opportunities**

![Screening Criteria Table](image)

- **Screening Criteria**
  - Is this the type of work we do best? Yes: 5
  - Do we have a competitive advantage? Yes: 15
  - Do we have the staff to handle the project? Yes: 15
  - Does it fit within our strategic plan? Yes: 5
  - Do we know the client's "hot buttons"? Yes: 5
  - Client Knowledge Memo:
    - Do we have a credible record with this client? Yes: 15
    - What is the geographic impact? Benefit: 10
    - Are the budget, schedule and scope realistic? 
    - Is the project wired to another firm? 
    - Wired to Which Firm? 
    - Does it present potential liability threats?

**Screening Total**: 65

**Screening Explanations**

![Risk-O-Meter](image)
Go/No Go Decision Making

- Step #3 - Accounting for the risk
- This is where risk and ethics intersect
- What strategies exist to account for the risk identified and quantified?
Accounting for Risk and Ethics

• Complete the loop
  – Updated throughout the acquisition process
  – Included in the Turnover Meeting
  – Analyzed after the project is over to improve accuracy and project acquisition skills
Summary

• Develop a corporate strategy to account for risk and ethics

• Focus on behaviors that promote:
  – Long-term relationships
  – Meeting expectations