The word “cheat” means to behave in a dishonest way in order to get what one wants. It’s not something that goes on in our industry of course, certainly not during the bidding process. The little tricks of the trade are more what we call “business as usual” than cheating. And there are gray areas, to be sure, which make it difficult to draw lines.

If it weren’t for a nagging little voice, we could probably leave it at that. But let’s throw caution aside and dig a bit deeper. The word “dishonest” is a mean little word; one that means one is seeking an illegitimate advantage. Why is it illegitimate? Because it hurts another’s survival too much, it seems.

Now this may all sound like horribly deep thoughts one would need a plumb line to read, but the simple facts are that when one cheats, one isn’t just getting ahead oneself, but actively harming another. And that’s a slippery slope to walk down, because as we all know, what goes around, comes around. While one can always count on a very small minority of lowlifes to cheat compulsively, for the most of us, we aren’t com-
comfortable with it. So when cheating becomes “business as usual,” we are looking at an unhealthy trend. To give an extreme example, contract cheating has become so bad in Russia that criminal groups force businessmen to sign contracts that can only result in huge debts, which are then paid off with their collateral.

Smoke, Mirrors and Gray Areas

If “cheating happens all the time in the industry,” as an Arizonan contends, then perhaps if we examine how the bidding process becomes lost in smoke and mirrors, we will not only avoid becoming the effect of others’ shenanigans, but also falling into the habit themselves.

“GCs have their favorite subcontractors,” a Delaware contractor volunteers, “and give them the numbers to beat from another contractor. It happens, and I’d love to be the one that it happens to! It’s unfair, but it’s business as usual. If you know what is going on, you don’t bother bidding when it is not going your way, as it’s taking money out of your pocket. One Far Side cartoon showed a picture of a bear that had just mugged a hiker and was picking the money out of his wallet. The hiker was lying on the ground, all torn up. Which one is the GC and which one is the sub depends on your viewpoint, but the bidding process sure feels that way sometimes.”

As the Arizonan goes on to explain, “If you have two or three contractors bidding, and two are close in their numbers, the GC or owner either has a favorite he’ll choose, or he’ll assign the job to a specific contractor. The idea being that he’ll either split up the job or alternate contractors on jobs so as to keep several contractors interested in bidding their work. They go through the bidding process as window dressing, so everybody feels everything is above board. Their choice is not based on price or previous work done.

“We have a project right now that accepts both union and non-union. The customer divvies out work to non-union guys whether or not they can do the job or their pricing is right. He only does it to stop the local people in Arizona from

By Steven Ferry
Have you used E-Bay to bid a job yet?

pitching a fit that he has given all the work to union contractors. Yet the non-union sub says it is hiring local people and even puts an ad in the paper, but it’s an out-of-state contractor, so it doesn’t help the locals anyway. Confirming what the Delaware contractor stated, he adds, “There is a lot of negotiated work, too, where a GC will give a sub a budget number from other bids received, so he can come in under that number and be awarded the job.

“A new twist is ‘debate bidding.’ GCs take the lowest number out there and set up an E-Bay auction line, giving that number to beat. They’ll pass the number around every 10 minutes, saying, ‘It’s your turn to bid against this number and if you can beat it, put your number up there. If not, bow out of the auction process.’ I don’t know if it’s legal, but there’s a government contractor in Tucson doing this. The result is poorer quality work. If you want a Cadillac, you won’t get it by insisting on paying Ford prices.

“Subs have their own antics, too. They will often bid at cost just to knock out a competitor. That has happened to us several times. Then, of course, there’s value engineering. Contractors get the job and then VE the job down, splitting the savings with the GC. The bidding process is a wild thing right now, it’s a tough, cutthroat business with work slowing down, and has worsened over the last five years.”
Echoing his colleague from Arizona, the contractor from Delaware says he has noticed a trend whereby “an owner will put out a job and several GCs will bid on it. They ask all the subs interested in participating during that time period to bid on it and get their prices. Now, in Pennsylvania more so than Delaware, after they have been awarded the contract by the owner, the GC will ‘buy out the job,’ meaning they will re-bid the job with the subs in an effort to find lower prices for the different trades. Typically, their strategy is to go into the owner at cost and then buy their profits out of the subs. Eventually, subs become tired of bidding for them. They add a percentage to their initial bid so that when the re-bid process starts, they can deduct that percentage and still come in at the figure they need to do the job properly.

“The cheating we meet is when owners select the lowest bids,” says a Floridian, “which are submitted by subs using (illegal) immigrants whom they don’t pay taxes on. Whenever we go against them in the bidding process, we know where the bottom dollar is, and we know there is no legal way they can be doing that work for 20 to 50 percent less than we can. It’s driving down the value of the stucco market. Where we used to be able to charge $4 a square foot, it’s now as low as $3 if we are to compete. In the drywall business, it’s the same way. You get these (illegal) immigrants hanging board in big apartment complexes for $3.50 a board, instead of $6. Three-fifty is what they were paying in the 1980s! It buried the market then, and it’s burying it today.”

An Alabaman says, “Cheating hasn’t affected us directly, but I’ve heard rumors of it happening, whereby somebody puts in a bid, says they’ll do something, and then you find out later that it hasn’t happened and they had no intention of doing it. It hurts the GC as well as the other contractors who don’t get the job.”

Looking at the gray areas, a contractor from California points out that “Bids are based strictly on the drawings and spec-
Are you guilty of value engineering placing a low bid and then making up the difference with changes?

ifications. Holes can exist because the architect has not fully developed the drawings. Our direction in such cases is to bid on the drawings and the specifications as-is, even though we know that they are incomplete, and then use the addendum process to introduce changes and updates. I don’t think it’s cheating—in the bidding war, you have to stick to what the documents say.

“So some people low-ball a project and try to make up the difference in the changes, but that’s different, and they are taking a risk. We don’t do it ourselves, but we sometimes see huge spreads that have us shaking our heads. Either there’s a bust in their budget or there is no mark-up. When the figures are that low, it’s not foul play. They’re either being aggressive or they missed something.

“It’s a touchy situation when a competitor gets a job that we would normally expect to be awarded. We keep abreast of the benefits that some of our competitors are paying. One can check their Dun & Bradstreet ratings, see if they have defaulted on their taxes, things like that, to see how come they can come in so much lower.”

Echoing the sentiments of several contractors, he went on to say that, “Everybody is always trying to beat the next
guy, but I can’t say there is an uneven playing field out there. When times are tough, everybody gets real competitive.”

**Apples to Road Apples**

A Coloradan agrees: “It’s more a case of companies having to beat other companies on a project. We’re all trying to keep our people busy and maintain our work volume. The biggest problem we run into is bidding on an incomplete blueprint that leaves an open end for our bidding of jobs. The issue of integrity comes into play. We really struggle with bidding it exactly as it shows, while knowing that we’re going to have to do it another way to give the owner what he wants. It’s a horrible experience to know you’re going in to find the loopholes in the plan. We find the GC will often tell us to clarify our bid, which we do. But it’s still human nature to look at a number first and then lock on the company that bids the lowest number. They tend not to read the clarification thoroughly and to make sure that they are comparing apples to apples. They don’t recognize that the high company has the issues covered and that he needs to ask the low company to include these in their costs.”

“I think the system forces GCs to run with the low numbers, and that’s where I get discouraged. When you are beaten on a whole slew of jobs in a row, you only have two choices—either you roll up the plans and send them back and say, ‘They’re not clear, we’re not even going to bid on them,’ or you have to have an agreement that the GC will make everybody add on everything equally. Otherwise, what happens is that the cost of the change orders eventually adds up to the price any higher-quot ing company had quoted during the initial bidding process. If
there were any cheating going on, that would be the most blatant.

“We don’t see it very often, but after a while, GCs won’t deal with certain companies because they know they’ll quote low and their percentage of changes by the end of the project will be way out of line. But the general trend is worsening. We need GCs, when they are in a position to talk to the owners, to tell them, ‘We’re not necessarily going to go with the lowest bid. We’re going to give the job to the company that does the job properly.’

“I’ve heard the European style of bidding requires they throw in both the high and the low numbers, and then negotiate some number in the middle. And that’s probably the right number, because the high number may have built too much into it and the low one may have been offered as a desperate effort to get work”

**Honest, Above Board**

All it takes to bring bidding back above the boards is for the majority of GCs, subs and owners to agree on how the bidding process should go. That it should be apples to apples, so everyone knows up front what is required and what it will cost—with no nasty surprises. It might include the usual way of haggling over pricing: voicing hi and low figures and then reaching a compromise in the middle. It seems to work in Europe, and they’ve been building a lot longer than we have. And, this being a free market, it should reward the most industrious, efficient and effective sub with the job—because that’s the way we raise quality and value and keep the customers happy.

If dishonesty is the seeking of an unfair advantage, then honesty could be thought of as producing a valuable product for which one is recompensed financially and with good will—the satisfaction of a job awarded on its merits and well done. Perhaps if we all concentrated on that, we could reclaim the definition of “business as usual” as it used to be, not the “business as unusual” as it has become over the last few years.

**About the Author**

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