

IS QUALITY CONTROL A CONFLICT OF INTEREST?

One of the most curious developments of my entire professional career has been watching the “hijacking” of an entire industry. For over 35 years I have been involved in the arena of environmental safety and health. During that span I have been employed by a state OSHA agency, the National Safety Council, and several other organizations before beginning a private manufacturing and consulting business. I have witnessed and participated in the development of many critical accomplishments and events, including the emergence of safety committees, the birth of the asbestos control industry, concentrated efforts at controlling chemicals (HazCom), the realization that environmental lead was as serious as industrial lead exposure (and much more difficult to control), the growth of indoor air quality in the public consciousness, and the explosion of concerns about mold.

With all but the last issue, increased awareness of a hazard led to industry responses and, ultimately, to government intervention in the form of safety and health regulations. In all these responses there was an underlying theme that any contractor who worked to correct those hazards should be focused on quality control—making sure the work was completed safely and correctly. The organizations tasked with correcting serious problems were not hamstrung by artificial restrictions on their efforts to ensure quality, even if the level of hazard dictated a second set of eyes to approve critical operations.

When is Self-Correction a Conflict of Interest?

The mold remediation industry was birthed in large part by lawsuits. As such, it is no wonder that a strong component of early developments was processes designed to limit potential liability. An early catch-phrase that was drummed into industry participants was that checking their own remediation work was a “conflict of interest”.

Contractors were told that they did not have the expertise or experience to evaluate job performance, even when they were responsible for getting the work done. This was driven to the extreme by zealous consultants and regulators in various states who dictated that contractors should not collect samples from any of their projects. This is in complete opposition to the majority of industries with potentially hazardous exposures where the contractor is responsible for ongoing quality control—including the collection (and sometimes analysis) of personal and area samples. Examples abound, including coal mining, nuclear power, chemical refineries, welding, sandblasting, food production, healthcare, and a host of others.

A Matter of Trust?

Obviously, there are different opinions about the conflict of interest issue as it relates to mold work. In the early 2000s the prevailing view was that, because of "potential health effect," third-party testing was *desirable*. This later morphed into the belief that remediators should *not* collect quality control samples. I find this interesting because from a health standpoint there is more immediate risk from sewage backflow, category three water losses, and trauma scene cleanup, yet none of those require third-party testing. Restoration contractors are quite capable of using instruments that evaluate cleanliness, do moisture mapping, and verify that dry down is complete—and they are expected to do so; but somehow they cannot be trusted to properly collect mold-related air or surface samples?

The issue becomes even more convoluted when industry guidelines and some state regulations restrict contractors from conducting mold investigations and then engaging in work on the same project under the high-minded principle of avoiding a conflict of interest. If this same approach was accepted in other industries, including safety-sensitive work, the resulting costs would be magnified with little appreciable value.

Imagine the folly of telling a mechanic that he may check whether the brakes on your car are in need of repair but restricting him from changing them out. A similar argument about conflict of interest could be made for the surgeon who diagnoses a tumor. Would it make any sense at all to then restrict the doctor who discovered the problem from fixing it? In both these examples it can reasonably be argued that the potential safety and health consequences are both more immediate and more severe than many fungal contamination situations, yet no one suggests that evaluation and correction of such problems is a conflict of interest.

You Cannot Legislate Honesty

In essence, it all comes down to honesty. While there are cases of mechanics defrauding customers and doctors performing unnecessary surgeries, those instances are the exception, not the prevailing modus operandi. In my experience, the same is true in the fungal control industry. If you are an honest contractor and have a reputation for such business ethics, there is little risk to the customer if you investigate and remediate, and then even check your own work. While there is no guarantee that a customer will never challenge a contractor's work, the legal system eventually roots out the truly bad actors.

Even so, contractors who perform multiple tasks on the same project (where such activities are not restricted by state rules) are best protected if they explain their procedures upfront and get the client to agree to them. Think about the form you are required to sign to rent a car. The rental agency not only asks for your signature, they also have you initial each section of the contract that describes specifics of the rental agreement (decline insurance, fill gas tank, etc.). Mold

remediators can do something similar. Lay it out clearly. Be specific about what will be done to ensure quality control (use the term “post-remediation evaluation” from the S520 Standard). Let the client know that they may have a third party come in and check your work afterward, if they choose to. If they do opt for a third party, make sure the client knows that you the contractor need to know this at the beginning of the project so that it can be determined what evaluation criteria will be used and so that you can arrange proper scheduling. With this level of communication you and your client should have similar expectations as well as documentation of your mutual agreement on the plan.

Conflict of interest is an overused term in the mold control industry. There is no conflict when a remediation contractor verifies that their work was completed successfully—it is a responsibility they bear whether they understand the implications or not, and whether or not they confirm it with their own testing.

About the Author

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