

## Planning for 2014

Times are uncertain, so here are five tips from Mark Zweig to prepare for the future.

It is shocking to me how many companies do what they call a 'strategic plan' that doesn't contain substantive homework on their ownership transition challenges.



Mark Zweig

EDITORIAL

**2013** is almost over and **2014** is within sight. It's time to review, refine, and revise the business plan for the coming year.

Of course, with everything going on outside the industry right now – the government shutdown first and foremost – there's plenty of uncertainty. Business likes certainty. I am hoping we get past this impasse soon and get back to normal.

We must have the resolve to do well as individual firms no matter what, however. So here are some things you should be thinking about as you start to plan for next year.

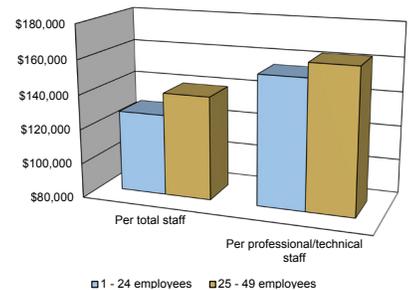
**1) Have you really talked with your clients about their plans?** What are their problems? What are their needs? How will you be able to serve them? These are critical questions you really need to answer BEFORE you do your 2014 plan – IF you want the exercise to be a valuable use of your time.

**2) Have you really talked to your people about their goals?** Not just about the performance appraisal kind of goals, but their REAL goals? Have you asked them what their biggest problems are, how you can help them do a better job, what frustrates them, etc.? If not, you should ask these questions. It would

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## TRENDLINES

### Smaller net



Net service revenue (NSR) per employee is significantly lower for firms with 1-24 employees, than those with 25-49 employees, according to ZweigWhite's 2013-2014 Small Firm Survey.

Firms with 1-24 employees report a median NSR per total staff of \$127,000 and a median NSR per professional/technical staff of \$154,928, while firms with 25-49 employees report a median NSR per total staff of \$139,936 and a median NSR per professional/technical staff of \$163,258.

– Margot Suydam, Survey Manager

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be fruitless to pursue a plan that doesn't mesh with your employees' interests; you'll lose them all – first in spirit, then in body.

### 3) Have you really thought about your ownership situation?

It is shocking to me how many companies do what they call a “strategic plan” that doesn't contain substantive homework on their ownership transition challenges. By “substantive” I mean that owners need to define their exit strategies and how much their ownership interests should be worth at that time, and the business plan needs to address that issue. There also has to be a stock model that shows the projected income and retained earnings, how much capital is going to go out to retiring owners, and how much new equity (or debt) has to be brought in to offset it, and where this money is going to come from. The “virtuous cycle” of capital in and capital out has to be planned for. To ignore all this is foolhardy and naïve and will only result in untold problems.

### 4) Have you done the financial research that needs to be done?

Do you know how you stack up against similar firms? How about when compared to other MORE successful companies? Do you know what your marketing cost is as a percentage of revenue in each of your market sectors? Do you even know what your real backlog is? This stuff is essential if you want to have a relevant business plan going forward.

### 5) Have you dealt with transition honestly?

Do you know who will replace whom for all of your top positions and mid-level management positions as well? If not, you need to. This is so crucial. And this second tier of successors needs to be engaged in your planning process. This is part of their education in how your firm works and in how to do their (future) jobs.

Planning takes preparation. Get on it now – the clock is ticking!



MARK ZWEIG is the chairman and CEO of ZweigWhite. Contact him with questions or comments at [mzweig@zweigwhite.com](mailto:mzweig@zweigwhite.com).

## A/E BUSINESS NEWS

**DODGE CONTINUES TO RISE:** The Dodge Momentum Index advanced 2.9 percent in September to 118.3 (2000=100), according to McGraw Hill Construction. The Momentum Index is a monthly measure of the first (or initial) report for nonresidential building projects in planning, which have been shown to lead construction spending for nonresidential buildings by a full year. After a brief pause in June 2013, the Momentum Index resumed its upward trend in the most recent three months. Since the end of 2012, the Momentum Index has risen an impressive 31 percent, and in September it reached its highest level since the first quarter of 2009. This acceleration suggests that, as of September, owners and developers viewed the environment for construction as improving.

Once again, the two main components of the Momentum Index diverged in September. The demand for new commercial buildings rose dramatically over the month, boosted by recovering market fundamentals such as rents and occupancy rates. The commercial component of the Momentum Index jumped 8.5 percent in September thanks to increased plans for new office development. Among the larger commercial projects to enter the planning phase in September were a \$150 million headquarters for Daimler in Portland, Ore., a \$150 million, 53-story office tower in Chicago, and a \$65 million office building for Public Service Electric and Gas Co in Newark, N.J. The institutional segment of the Momentum Index retreated 2.5 percent in September, as a gain for healthcare projects was offset by a larger decline in plans for amusement and education buildings.

**INCREASING RESILIENCE:** The reality of climate change will forever change community building, with planning and development decisions increasingly based on strengthening community resilience through what is built, and where and how it is built, according to a new report released by the Urban Land Institute.

Leading up to the one-year anniversary of Hurricane Sandy, ULI has prepared “After Sandy: Advancing Strategies for Long-Term Resilience and Adaptability,” which offers guidance on community building in a way that responds to inevitable climate change and sea level rise, and helps preserve the environment, boost economic prosperity, and foster a high quality of life.

ULI, a global research and education institute dedicated to responsible land use, has a long history of advising communities on repositioning after disasters. At the

request of three ULI district councils – ULI New York (city), ULI Northern New Jersey, and ULI Philadelphia, which serve ULI members in those market areas – ULI in July 2013 convened a panel of the nation's foremost authorities on real estate and urban planning to evaluate local and federal plans for strengthening community resiliency post-Sandy, and offer guidance on rebuilding efforts. Candid insights and observations from these experts formed the basis for “After Sandy,” a comprehensive, practical set of 23 recommendations focused on four areas – land use and development; infrastructure, technology and capacity; finance, investment and insurance; and leadership and governance.

The report's overriding message: The increased frequency of severe weather events, as well as rising sea levels, are compelling the real estate industry to address climate change by working with the public sector to implement adaptive measures that better protect both the built and natural environment.

## THE ZWEIG LETTER

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## SELLING

# Harness web's power – show and tell

Websites need to be more than just a list of projects or a statement of qualifications.

By LIISA SULLIVAN  
Correspondent

Websites can be powerful tools – if used right. They not only allow you to show off projects, but you can also demonstrate how these projects can help to improve lives. So, you should know how to show and then tell. Now, that's something to think about.



Josh Kelly,  
Managing  
Partner, FINE  
Design Group,  
INC.

**ADVICE FROM A PRO.** Josh Kelly, managing partner, FINE Design Group, Inc., a web design firm that has worked on some top A/E websites, such as **Perkins+Will, T.Y. Lin International Group, CH2MHill** and many others, says that what often gets lost in the A/E industry amid all the detailed descrip-

tions of services, project types, and detailed case studies, is the magnitude of the projects and the impact that they have on people's lives.

"The digital medium is ideally suited to capture that, and it is first and foremost a visual test," he says. "It's really important to use the visual strength of the medium to show, not just tell, the end result of architecture and engineering projects."

Kelly shares the following practical tips:

■ **Pace yourself.** Of course, photography is critical, but so is pacing the content to keep heavier text and details from overwhelming the first visual impact. What does this mean? Pacing

allows users to be able to decide how much information they want, starting with a glance at a picture, moving into shorter copy, and then on into the details. Through design and content, you can enable the user to get a quick read on a project via visuals, headline, and short copy, before being compelled to dig into the more long-form content that follows. So, it's about creating the right hierarchy visually, so that site visitors don't have to read a ton of content – unless they want to.

"It's really important to use the visual strength of the medium to show, not just tell, the end result of architecture and engineering projects."

■ **Be user-friendly.** Another related and often overlooked element is to make sure that there is a very user-friendly content management system (CMS) in place. This CMS manages visual galleries and case studies, so that these elements can be easily updated with the most recent projects to remain relevant and interesting. If it's easy to update, it will likely get done. Otherwise, chances are that content will languish and get stale.

■ **Personalized tours.** Use the CMS to assemble "personalized" tours. How? Select a batch of projects that may be ideally suited to a potential client and can be emailed to them. To focus their attention is a powerful tool.

■ **Keep up with technology.** Nowadays, it's critical to think of mobile and tablet viewing as early on in the process of designing a website as possible. More

people today are viewing the web via these devices, so what that requires is even further paring down of project-related content to focus on the visual and core content takeaways that can be accommodated on the smaller screens with quick-hit image galleries and high-level project overviews. Remember that the web and mobile site can be a repository for some highly detailed, extensive content. But its first role is usually to pique interest – bulky content can either be pushed down in the site map for optional viewing, or reserved for follow-up interactions.

**WHAT'S THE OVERALL VALUE?** Kelly says that people will judge you by the end results. Therefore, it seems obvious that demonstrating project prowess is critical to demonstrating your firm's capabilities. It goes back to the idea of show and tell.

"You can certainly publish credentials and descriptions of services to support your firm's abilities, but that remains somewhat abstract until you can point to a completed project and tie the whole story together," he says. "Projects are often the best way to show how all a firm's capabilities come together as applied to a project, rather than as fragmented skills and abilities that you describe in a vacuum. It goes back to the difference between 'show' and 'tell,' where projects are the best way to demonstrate what you do by 'showing' your capabilities in practical action, rather than just 'telling' the things you're theoretically able to do."

What's more, digital has clearly become the medium that people look to when they want a full picture of what a company is and does.

"They'll rely on reputation and word-of-mouth and other things to validate their impression, but the digital destination is critical to showing project

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## GOOD TO KNOW

Less than a quarter of firms (21 percent) report they redesigned their website in 2013. The majority redesigned their website in 2012 (31 percent).

Source: 2013 Marketing Survey, ZweigWhite: [www.zweigwhite.com/p-2166-marketing-survey-2013](http://www.zweigwhite.com/p-2166-marketing-survey-2013)

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work,” Kelly says. “And even beyond that, there’s an altogether reasonable expectation today that a firm whose core capabilities include technical, design, and project management skills should be able to create a fairly impressive presence online.”

A website is an instant credibility check to find out whether your firm has remained relevant, vibrant, and invested enough to deliver a compelling experience in the medium most people look to today to get a comprehensive view of what you do.

“In the end, a web and mobile digital destination must be information architected and software engineered, which is a pretty strong parallel to what A/E firms do in physical space,” Kelly says.



Kenneth Boyer,  
Director of BD,  
Douglas Wood  
Associates.

**FIRM PERSPECTIVES.** Kenneth Boyer, director of business development, **Douglas Wood Associates** (Coral Gables, FL), a 14-person structural engineering firm, calls its website ([www.douglaswood.biz](http://www.douglaswood.biz)) home in the digital landscape.

“It’s our public face – the showcase for our client’s success stories and accomplishments,” he says. “At the moment, we’re undergoing a website renovation and incorporating newer technologies to allow faster updates and streaming of our social media content directly through it. We’re working on closing the tech gap between platforms.”

Boyer adds that Douglas Wood Associates typically updates the website every two- to three months. Once the renovation is complete, it will update weekly.

**KSS Architects’** (Princeton, NJ) website is an inspirational, logical, and useful extension of its brand. It’s a valuable resource for those in the architecture community at large, the media, and clients and consultants – both existing and pro-

spective.

Merilee Meacock, partner at KSS, says the site ([www.kssarchitects.com](http://www.kssarchitects.com)) is designed to reach and support multiple target audiences and to achieve several goals. The look, feel, and voice of the website underscores the KSS brand and culture, enabling site’s users to begin to understand who it is as a firm and as individuals.

“As a resource for potential clients, the site presents and disseminates information about our firm, including how we approach our work, our history and capabilities, and our past and current projects,” Meacock says. “We continuously update our content, at least once a week, with project reviews, press releases, and noteworthy news and events.”

“At the moment, we’re undergoing a website renovation and incorporating newer technologies to allow faster updates and streaming of our social media content directly through it. We’re working on closing the tech gap between platforms.”

The KSS site is also intended for knowledge sharing.

“We regularly post to our blog and author more in-depth articles discussing the latest trends, technologies, and developments in the industry as afforded by our experience and observations,” Meacock says. “We also use the website to attract and recruit intelligent, interesting, and diverse talent.”

KSS’s website is on-brand, yet purposefully multifaceted as it strives to be a relevant and valuable resource for those in the field of architecture – and beyond.

“It simultaneously reflects and contributes to our success and that of our clients,” Meacock says. ▀▄

## ON-SITE BUSINESS TRAINING...

### YOUR EMPLOYEES, YOUR OFFICE, YOUR SCHEDULE

Have ZweigWhite present a business management course at your architecture, engineering, planning or environmental firm.

In-house courses give you the opportunity for in-depth content and greater interaction. You’ll save hundreds of dollars on travel costs and your employees will get personalized guidance.

These training sessions are facilitated by ZweigWhite principals who have worked with countless architecture, engineering, and environmental consulting firms, helping them overcome business challenges and achieve success. Now you can schedule them to work directly with your staff, right in your office.

Schedule one of these courses at your firm:

### FINANCIAL MANAGEMENT FOR NON-FINANCIAL MANAGERS

Understanding about the numbers is NOT just something for CFOs and accounting staff. In today’s competitive business environment every manager needs to be accountable for the bottom line.

In addition to an overview of basic accounting principles and financial reporting requirements, this course covers other finance fundamentals that present the greatest challenges to non-finance staff. To review the agenda, click [www.zweigwhite.com/seminars/fm/course-outline.php](http://www.zweigwhite.com/seminars/fm/course-outline.php).

### BEST PRACTICES IN A/E/P PROJECT MANAGEMENT

This seminar provides a review of fundamentals like: roles and responsibilities; accounting; communication, and planning, executing, and closing out a project. Attendees will also learn how to manage things that derail even the best of us at times like: what to do when the PM quits; what to do when there is a bad PR event; how not to lose your shirt; how not to tick off clients; how not to create liabilities, and how to make more money.

For more details about the project management program, click [www.zweigwhite.com/seminars/pmo/](http://www.zweigwhite.com/seminars/pmo/).

To schedule a seminar at your firm, or for more information, please contact ZweigWhite at [events@zweigwhite.com](mailto:events@zweigwhite.com) or call 508-318-5513.

## SURVEY

# The evolution of management pay

The recession forced firms to redraw their pay schemes. Here's how the salary landscape looks now.

By CHRISTINA ZWEIG  
Contributing editor

In the A/E/P and environmental consulting industry today, increased competition and tighter operating budgets have challenged firm leaders to find a way to balance business, staff, and personal needs.

ZweigWhite's 2013-2014 Management Compensation Survey makes that clear: "Given the unprecedented downturn in the economy and uneven design climate, most economists predict moderate growth at best through 2013. Those firms that capitalize on the opportunities to balance the distribution of managerial compensation with re-investment in their firms will emerge with the strongest and most competent teams when the recovery picks up steam."

**CHANGING MOODS.** Principals and directors have traditionally been comfortable with a combination of variable (business performance-based incentives) and fixed (salary-based) compensation, but the survey finds that the moods, fortunes, and compensation of the management class in this industry

have been fluctuating greatly.

Over the past two years, most A/E firms have had to redesign their operating and ownership models. Staff turnover occurred at a higher rate than at any time in the past decade. With the cooler M&A climate, owners looking to sell their firms have had to rethink their retirement timelines.

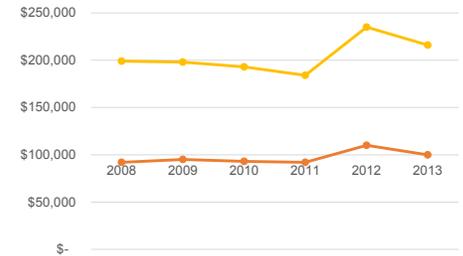
With that, compensation for project managers has seen some of the biggest fluctuations.

In 2008, PMs had a median total compensation (salary plus any overtime and bonuses) of \$107,000. This number dropped steadily to \$92,000 in 2011, then jumped drastically to \$125,000 in 2012. This year, compensation dropped to \$110,000. In latest survey, 81 percent of PMs say they are not eligible for overtime pay.

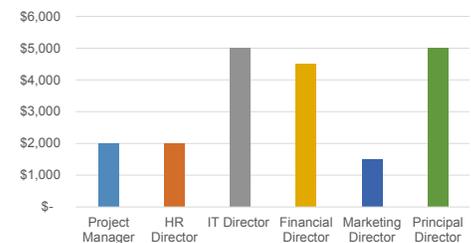
The majority of project managers (54 percent) received a bonus last year, though bonus amounts were among the lowest in all of management. The survey found that more experienced managers received higher bonuses – well over twice the median amount.

**IT DOES WELL.** It's good to be an IT director in an A/E Firm. Despite the downturn, technology has been one thing that firms just can't afford to not invest in, and salaries have kept rising. In 2008, the median total compensation for IT directors was \$95,000 and it has increased steadily from there,

## PROJECT MANAGER SALARIES



## PROJECT MANAGER BONUS



Source: 2013-2014 Management Compensation Survey, ZweigWhite.

reaching \$107,000 in 2013.

For many in our industry, 2014 will continue to bring change and challenges, promises and pitfalls. Satisfying key managers' compensation expectations with a combination of individual and company performance-based incentives will ensure that key employees are focused on the right things, and that those key employees are rewarded, and consequently, retained to keep the company heading in the right direction. ▲▲

## RESOURCES

**MANAGEMENT COMPENSATION SURVEY:** How much is enough to keep your firm's top managers from running to the competition? How much is too much and could end up hurting your firm's bottom line?

It's a tough job to find a balance between the two. Knowing salary standards and bonuses for top managers in the A/E/P and environmental consulting industry can help you determine what your key managers should be earning during hiring and salary review processes. ZweigWhite's 2013-2014 Management Compensation Survey covers salaries, bonuses, overtime pay, and total compensation for all top managers, including project managers and information technology, human resources, financial and marketing

directors.

Whether you're looking to find out if you're paying top managers their worth or you want to make sure you're earning your fair share, this book will answer all your questions about managers' salaries, bonuses, overtime pay, and total compensation. Don't take another step toward salary reviews or business planning without first getting your copy of the latest edition of this important report!

For more information or to buy a copy, call 800-466-6275 or log on to [www.zweigwhite.com/p-2173-management-compensation-survey-2013-2014](http://www.zweigwhite.com/p-2173-management-compensation-survey-2013-2014).

# The value of retaining copyrights

The discussion of ownership rights includes the physical documents, reproductions, electronic versions and the actual building itself.

A common topic in contract negotiations is the ownership of drawings and copyrights. With increasing frequency, clients want to own the documents and the copyrights. Savvy design professionals realize, however, that control of these rights can give leverage to either party if there is a dispute. Just as an owner might withhold payment to get some concession, an architect or engineer who has ownership rights in its documents might withhold permission to use them absent payment or a release. The discussion of ownership rights includes the physical documents, reproductions, electronic versions and the actual building itself.

First, let's clear up some confusion about owning "drawings" versus owning "copyrights." Although the two concepts are often mixed, U.S. law recognizes that the ownership of a design professional's documents is separate and distinct from ownership of the copyrights to the design depicted in those documents. Section 17 U.S.C.A. § 202 of the federal copyright statutes provides that: "Ownership of a copyright... is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object... does not itself convey any rights in the copyrighted work embodied in the object." So, when a client insists on owning the plans and specifications, that does not automatically include the right to make copies. For example, in a 1993 Pennsylvania case, an architect sued for copyright infringement after his drawings were copied by a fellow architect who took over the project. The court held, however, that a contract clause that transferred only the ownership of drawings did not suffice to transfer the copyrights. *Cassway v. Chelsea Historic Properties I L.P.*, 26 U.S.P.Q. 2d 1791 (E.D. Pa. 1993).

**OWNERSHIP OF DOCUMENTS.** It is generally held by the courts that, "In the absence of a contrary agreement, one who hires an architect to prepare plans and specifications for a building and pays the architect therefor becomes the owner of the plans." 6 CJS *Architects* § 5 (2013). Think of an artist you commission to paint a landscape for your office lobby. You pay for the original art, frame it and own it, but the artist might retain the copyrights to sell reprints at her studio. The same is true with architectural or engineering drawings. This can be changed, of course, by contract and often is. Under AIA contracts, the architect owns the documents it prepares, and the copyrights, but grants a "limited license" to the owner to build the project. See, e.g. AIA's B102 (2007 ed.), Art. 3. The owner's "non-exclusive license" to reproduce the documents lasts as long



WILLIAM  
QUATMAN

GENERAL  
COUNSEL

as the owner complies with the contract, including the obligation to pay promptly. "Non-exclusive" means the architect could license use to others in the future if the design is popular, just like the artist who sells reprints of her painting.

**COPYRIGHTS EXPANDED.** U.S. courts have for many years extended copyright protection to architectural and engineering drawings as "pictorial, graphic, and sculptural works" under 17 U.S.C.A. §§ 101 and 102(a) (5), which specifically include "technical drawings." The law prevented an infringer from making duplicate copies of plans. But what if someone merely took photos of a building and then redrew it in order to build a replica? Is that an infringement if no plans were copied?

See WILLIAM QUATMAN, page 8

You pay for the original art, frame it and own it, but the artist might retain the copyrights to sell reprints at her studio. The same is true with architectural or engineering drawings.

# Advisory: Explicit lyrics win more work!

Avoiding implicit statements that leave clients drawing their own conclusions.

You have probably seen the logo on the cover of certain music that says “Parental Advisory: Explicit Lyrics.” In the context of that advisory, “explicit” is used as adjective. It warns parents that the music contains strong language. In the context of this article, “explicit” is a noun – “Stated clearly and in detail, leaving no room for confusion or doubt,” according to Merriam-Webster dictionary. As technical professionals, we are wired to be exact or “explicit” in our language and our designs. Of all the industries out there, I believe it is safe to say that we are some of the most obsessive about technical perfection. Why is this desire for explicit and exact measurement of results and benefits limited to the technical side of our business? Why doesn’t it traverse into our marketing materials? Why doesn’t it traverse into our marketing and implicit in our approach or that we are speaking in a language that is too far above the average person’s head. It’s time you start designing your marketing and sales documents with the same attention to detail and explicit language used in your technical project documents.

Your highest marketing objective should be to describe clearly and explicitly, to diverse audiences, the benefits of your services and how you are differentiated from the competition. Let’s explore this objective by splitting it into two parts; 1) the clear and explicit part, and 2) the diverse audiences part. First, too often technical firms’ marketing materials, proposals and presentations are full of implicit statements or just generally vague. Implicit statements are, of course, the opposite of explicit and are implied, rather than expressly stated. The big danger of using implicit statements in your marketing materials is that you are leaving interpretation up to the reader. Take for instance the statement, “We have over 35 years of WTP experience” followed by a list of water treatment plants your firm has worked on. You assume several things. First, you assume that the audience believes that is a lot of experience and a valuable selling point; second, you assume they are able to find relevance in the list of plants you provide. You are leaving the conclusion of whether the credentials are impressive or not up to the reviewer. Often that conclusion will be drawn by how it compares to your competition. To take control, spend more time crafting your message and tell the client why your 35 years is important and how it uniquely qualifies you for that specific project. Then draw attention to specific projects in your résumé that prove your experience contains benefits that will accrue to your client if they hire you. Being explicit leads your client to the exact conclusion you want



Chad  
Clinehens

## BRAND BUILDING

them to make. Being explicit in your message gives your client the precise benefits you offer and the info they need to select your services.

Now for the diverse audiences part of our lesson. Note the statement we made above about 35 years of experience contains the moniker “WTP.” Too often in our industry, we speak technical talk to audiences that are not equipped to understand our vast library of acronyms, symbols, concepts, or terms. Although most of those in decision-making positions understand the basic acronyms our industry uses, there are many instances where they may not. Unfortunately, we are trained to shorten technical terms into acronyms or phrases that make no sense to the general population. For instance, when reading “WTP,” many of your will recognize

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Why is this desire for explicit and exact measurement of results and benefits limited to the technical side of our business? Why doesn’t it traverse into our marketing materials?

## CHAD CLINEHENS, from page 7

it stands for water treatment plant. If you took a poll of the general public, most would have no idea what that means. Because of the availability and ease of access to information these days, our industry is having to cater to a wider group of interests than ever before. While the selection committees seem to be getting bigger, concerned citizen organizations, special interest groups and other numerous stakeholders are having a greater influence on our client's decision-making process. As such, we have to speak to a wide variety of interests and backgrounds and must do so using an explicit message that leads a diverse group of people to the same conclusion. That conclusion is that your team is the best team for the job and that you will fulfill all the various needs, including value, quality, sustainability, community friendly, timeliness and so forth. Being explicit in the benefits you provide avoids the risk of your marketing message getting lost among the others or even being completely misunderstood.

I challenge you to start looking at your marketing materials; specifically sales documents such as proposals

and presentations that are used in the final stages of project acquisition. I predict you will find many implicit messages that allow your clients to draw conclusions that do not have the impact you intend or prefer. The first step in remedying this is to create work processes that integrates your marketing and technical staff better. Have clear roles on marketing pursuits that demand a certain level of involvement from your billable technical staff that gives your sales documents an appropriate amount of technical input. Give your marketing staff the clear objective of crafting messages that tell the audience exactly what you are trying to say. Challenge your staff to remove vague or implicit statements and start focusing on specific the benefits your company can provide. Take those benefits and be loud and proud and promote them everywhere you can. As an industry, we have to be precise and exact in our marketing message just as we are in the calculations we use in the design of our projects. Be explicit and get your client's attention. ▽▲

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For years the answer was "no," as courts made a distinction between the actual copying of *drawings* versus the construction of a *building* modeled after an existing building. The leading case on this distinction involved a homebuilder who sued after he saw a house being built that was similar to one he already constructed. The court held that though the plans were protected, the house itself was not protected (absent a "design patent"). "Construction of a building imitating that depicted in copyrighted architectural plans does not... constitute infringement of those plans," the court said. An injunction was granted only to prevent further copying of plans or reliance on them. *Demetriades v. Kaufmann*, 680 F. Supp. 658 (S.D. N.Y. 1988). That all changed two years later, in 1990, when Congress passed The Architectural Works Protection Act, which established "architectural works" as copyrightable subject matter. An "architectural work" is defined as "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings." 17 U.S.C.A. § 101. This was a huge change in the law, since not only are drawings protected from being copied, but the actual building itself is now protected from being reproduced, even by photographing and redrawing the plans and elevations.

**THE VALUE OF OWNERSHIP.** Often in fee disputes, a design professional can prevent a client from using the drawings (retained ownership) or making copies (copyright) if these rights are clearly preserved in the contract. See AIA contracts, for example, which give the architect the right to terminate the contract for non-payment – also terminating the owner's license to use the drawings. While an owner might argue that the designer is holding the drawings "hostage" to force payment, thus stalling the project, the courts will uphold such a clause. But, you better be sure the

Often in fee disputes, a design professional can prevent a client from using the drawings (retained ownership) or making copies (copyright) if these rights are clearly preserved in the contract.

money is owed before playing that card, as a wrongful termination of the license could result in damages claimed by the owner. Recently, in a 2012 Delaware case, a developer hired an engineering firm for a housing project. When a dispute arose over the engineer's services, the developer made a claim and demanded release of the drawings. The engineer required the developer to sign a release of liability before turning over the drawings. Later, the developer sued the engineer for damages, claiming the release was void as it had no choice but to sign under "economic duress" in order to get the drawings. The court did not buy that argument and held that, "While Defendants may have driven a hard bargain in refusing to release work product unless Plaintiffs executed the Release, aggressive negotiation is insufficient to constitute duress." Noting that the developer was "a sophisticated and seasoned businessman" who was free to consult his attorney before signing, the court said the release was valid. *Riverbend Community, LLC v. Green Stone Engineering, LLC* WL 1409013 (Del. Super. 2012). More than a few design professionals have smiled when reading this result, having been on the receiving end of a "hard bargain" driven by a developer client. ▽▲

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RIGHT NOW

## Making marketing work on a budget

Firms should maximize the web and more traditional means of marketing, but it shouldn't be a shot in the dark – it's all about the audience and the message.

By LIISA SULLIVAN  
Correspondent

**M**arketing campaigns do not need to be elaborate or expensive to reap positive benefits. To that end, many of today's campaigns are designed around using free and readily-accessible tools.



Annemarie  
Marek, Principal  
at Marek  
& Company.

**COMBINING PLATFORMS.** Annemarie Marek, principal at Marek & Company, says that some of today's best marketing campaigns combine electronic and print delivery.

"For email delivery, using segmented databases that target the right audience paired with the right market sector and the right content deliver the greatest impact," she says. "Some examples of firms who do this effectively would be the architecture firms **Kirksey** (Houston, TX) and **HKS** (Dallas, TX). And, HKS goes a step further by incorporating links to short information-driven videos on its website."

Marek believes that firms will continue to see email and video delivery methods evolve and she predicts much growth through these online channels, especially using YouTube or short, website-based videos. These delivery methods are also very affordable with the main expense being the development, maintenance and segmentation of a firm's customer database.

As for combining print with electronic delivery, Marek believes that postcards and letter mailings actually carry greater weight than in the past.

"Print messages delivered via snail mail are more easily targeted and read now because they are underutilized," she says. "Our mailboxes are lighter, which creates opportunities to reach out and connect in a more substantial way. Think about it – when was the last time you sent a handwritten card or one-page letter to your key clients?"

**DON'T FORGET FACETIME.** Marek also stresses the value of networking and facetime with prospects and customers.

"Although these interactions require more time, building long-term relationships does not happen from an aggressive email or print campaign," Marek says. "Most principals and associates of firms still understand that spending quality time together can be advantageous both in terms of future business, solid client relationships, and, yes, even long-term friendships. It's difficult to place a dollar figure on these types of relationships."

**A WORD ABOUT ADVERTISING.** There is great debate about the effectiveness of advertising campaigns and depending on the publication and, the frequency of the advertising, such campaigns can be budget-busters.

"The most important criteria for launching any ad campaign is to understand the audience, your message and its value-added proposition. You must also develop a tracking method to assess every campaign's ROI," Marek says.

Marek adds that in today's marketplace, she has observed ads that promote egos, projects, promotions and services. In most cases, none of the ads offer market differentiators. Content is weak, messages are mixed, and design treatment is ineffective.



Nate Bierschenk,  
Marketing  
Assistant,  
TerraTherm.

"As a result, budgets are blown because the more strategic conversation of, 'What do we have to say and why should it matter to any prospect?' hasn't been discussed. Nor have any test ads been developed to vet with the target audience," she says.

Well-planned campaigns roll out effectively when a strong, strategic foundation has been built, when a realistic budget has been approved, and when a method of assessing results has been identified.

**B2B, NOT B2C.** Finally, Marek says that firms need to remember in their marketing and advertising that they are in a business to business (B2B) world, not business to consumer (B2C) world.

"One of the greatest oversights in creating and deploying effective marketing campaigns in the AEC industry is the failure to recognize that we are operating in a B2B environment. B2B campaigns are designed to deliver awareness, impact and responses that support the business development activities of a firm, not detract from it," she says. "While B2C campaigns are injected in many cases with humor, promotional incentives, unusual visual aids and other non-essential messages, B2B campaigns should focus on the core capabilities, key differentiators in people, projects and services, and other compelling reasons to work with that business. There should be a clear-cut path to wanting to do business together."

**EDUCATION AS MARKETING.** At **TerraTherm** (Gardner, MA), a 64-person firm specializing in the development and implementation of in situ thermal remediation of organic contaminants in subsurface source zones,

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# Become a better communicator

Excelling in the art of communication is a skill that you can learn and improve upon by following these tactics.

**A**h communication – a skill that is taken for granted within the office environment. We don't realize how important good internal communication is until we are in the midst of trying to sort out the negative outcomes that result from bad communication.

Bad internal communication can cause more than just strife and frustration among employees. It can impact a firm's growth negatively. Organizations with an average of 9.3 engaged employees for every actively disengaged employee in 2010-2011 experienced 147 percent higher earnings per share (EPS) compared with their competition in 2011-2012, according to Gallup's 2013 State of the American Workplace: Employee Engagement Insights for U.S. Business Leaders. Gallup estimates that active disengagement costs the U.S. \$450 to \$550 billion a year. Strong internal communications yields a high level of employee engagement, which in turn can be a positive on the firm's overall growth.

While some people have the natural ability to be good communicators, for others it's more of a challenge. Don't fret though – excelling in the art of communication is a skill that you can learn and improve upon by following these tactics:

- **Recognize your weakness.** First and foremost you need to recognize and take ownership of the fact that you aren't the best communicator. Like any weakness, once you recognize and embrace it, you can then begin to take the necessary steps to improve upon it, transforming it into a strength.
- **Know your audience.** Who are you talking to? How does that person receive information? How does he learn? Understand his language and learn the best way to speak to him when trying to make a point. Does this person work better with more details? Then if so, provide them. Does he respond to hard data and facts? Yes, then give it to him.

Use words and metaphors that will resonate with your audience. If you are speaking to the CEO, vice president, or CFO, the words you'll use will be different than when speaking to a group of young architects or engineers. Every audience has its own industry buzzwords. It's important to use those phrases and metaphors so that the message resonates with the audience. However, avoid using catchall office jargon like "low-hanging fruit." What does that mean? That kind of office jargon is vague and easily open to misinterpretation. Be specific, detailed, and accurate with your word choice. At the same time, if the recipient says an industry phrase that you're not sure about, then follow up with a question to clarify.



Franceen  
Shaughnessy

## GUEST SPEAKER

- **Make a succinct point.** Have a point when you're communicating, especially when you are trying to get buy in. Also, have only one point and make it concise. With one, concise point, the recipient can focus more easily on the overall message. Knowing your point will also allow you to keep the conversation on track. Understanding the point and the end goal will help you with steering the conversation back so that the recipient is focused on the overall message.
- **Listen and don't interrupt.** Listening is an essential skill when it comes to effective communication. Additionally, interrupting people is a sign of disrespect and sends the message that what they are saying isn't important. Listening shows empathy and tells the recipient that you want to understand their thoughts. In the end, bad listening results in assumptions, which leads to miscommunication.
- **Be open to differing viewpoints.** At the same time, you need to be open to varying opinions. Everyone has a different communication style so don't assume the answers will be presented in a certain way. Focus on what they are saying and be open so that you can respond appropriately and on topic. Be receptive to criticism and, if necessary, respond in

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Bad internal communication can cause more than just strife and frustration among employees. It can impact a firm's growth negatively.

PORTFOLIO

# Getting up close and personal

Fifty stories for 50 years, plus a new website, complete half century of Cambridge Seven Associates.

By CHRISTINA ZWEIG  
Contributing editor

The many tales that compose the storied life of architecture and exhibit design firm **Cambridge Seven Associates** (Cambridge, MA) would take forever to tell. But how about a story per year?

For its 50th anniversary C7A did exactly that, and then some.

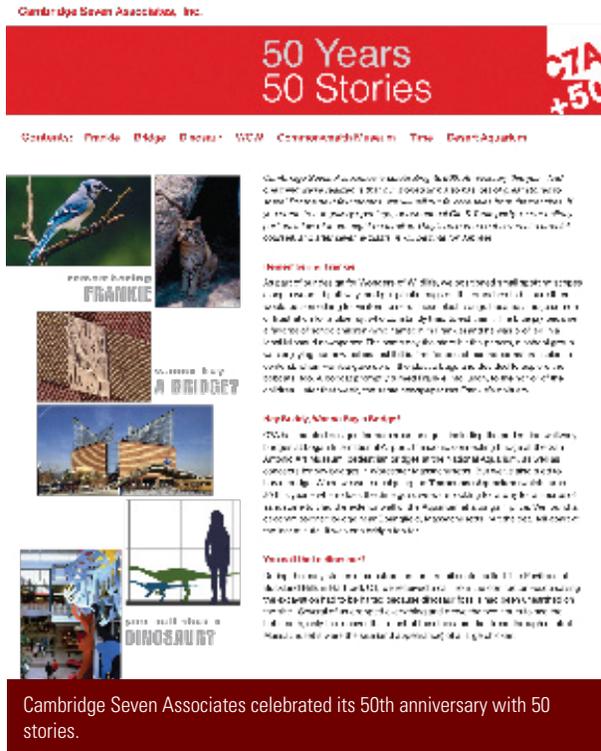
C7A teamed up with Lisa Quackenbush of cuePR to create a promotional campaign that set out to honor the firm's ground-breaking past, highlight current C7A people and projects, and position the firm for the next 50 years. They decided to leverage C7A's treasure trove of "remember when?" and "did you know?" moments – the anecdotes firm members would talk about internally or reminisce about with colleagues in the industry, to give those in the wider C7A "orbit" an "up close and personal" look into C7A's culture. The result was "50 Years/50 Stories." As an additional part of the 50th Anniversary, the firm executed a major redesign of c7a.com, and created a new C7A "50+" logo. The "50+" logo was used throughout 2012, not only honoring the firm's past but also hinting at an equally bright future.

**USING SYMBOLISM.** The firm says, "Whenever possible, we use the number 7 as an organizing vehicle and way to reinforce the C7A brand. It naturally evolved that the 50 Years/50 Stories campaign would consist of seven emails each containing seven stories, with the 50th 'story' being the launch of our new website."

"The 50 Years/50 Stories campaign was not just about promoting our projects. We wanted to share memories from people in the office, funny anecdotes from the job site, surprising histories of the buildings we adapted, and sometimes tales of things gone wrong (like 'Where's Boston' and the Blizzard of '76)," Quackenbush says.

In agriculture, farmers used to rotate their crops every seven years, and after seven cycles of seven years (in the 50th year) it would be time for Jubilee – a time of celebration and gratitude. C7A used this concept to have a party, Jubilee (literally and figuratively), at the New England Aquarium – one of their earliest and most famous projects, and a client they continue to work with to this day.

The promotional campaign included the redesign of promotional displays in the C7A office, sponsorship of the opening exhibit at the Boston Society of Architects, which highlighted two early C7A projects; the C7A Group Show (a celebration of staff's artistic talents displayed in their office); a series of seven email newsletters focused on the untold stories



of the firm; creation of the anniversary logo; development of C7A 50+ promotional items like new coffee mugs, and USB drives; and the 50th Anniversary Jubilee and launch of their new website.

The 50 Years/50 Stories email campaign went to the firm's 2,300-person contact list of past and current clients (academic, hospitality, commercial, civic, museum, aquarium and exhibit projects), prospective clients, consultants, contractors, friends of the firm, staff, and our Facebook and Twitter fans. A smaller group of 700 individuals (330 attendees) were invited to Jubilee 50th Anniversary Party.

**RESEARCH, PLANNING, AND IMPLEMENTATION.** In early 2012, C7A created a schedule for the campaign, noting key milestones and promotional opportunities. Quackenbush of cuePR began interviewing members of the C7A staff and worked with 50th anniversary committee to compile a list of behind-the-scenes stories. Stories were distributed via email in seven groups of seven, with the 50th story sent as a stand-alone email announcing the firm's new website. Each email blast featured six print stories with accompanying images and a seventh that linked to a video on C7A's YouTube channel. The emails were also shared through social media to Facebook fans and Twitter followers.

From February through August 2012, C7A kicked off the rest of their comprehensive campaign. The firm sponsored a newly opened BSA | Space's first exhibit, "In Form," providing

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materials and information about two iconic Boston projects: the MBTA “spider map” and “Where’s Boston?” The firm also hosted a 1962-themed party and had a group art show; all of which culminated with the Jubilee party. The seven emails were even enlarged and mounted on seven 7-foot pylons, as décor!

Quackenbush says, “Cambridge Seven has always prided itself on being inventive and forward-thinking. Our passion and sense of humor helps us connect with our clients as we collaborate to create meaningful designs. We want to celebrate our past, appreciate our present, and look to the future with a website that is fresh, modern, and ‘smart’.”

**RESULTS.** 50 years/50 Stories was a hit! People emailed and called to say how much they enjoyed the stories, often shar-

ing their own memories of working with the firm or suggesting additional story ideas. They were truly engaged. C7A re-connected with former clients and was able to update them on current/future projects. The high open rate for the email campaign helped C7A expose clients to their full portfolio.

“The campaign generated both pride and teamwork. We were able to introduce our younger staff to more of our firm’s 50-year history. Many of them contributed their own stories to this effort. We launched the new C7A.com to great acclaim, with over 5,000 new visitors to the site from its late-August launch to the end of the year (since the New Year, an additional 4,000 have already visited the site),” says Jo Oltman, marketing manager.

The daily average of site visits more than doubled, from 30 to 50 on the old Flash website, which was not compatible for smart devices, to 125 to 150 on the current site. ▲▲

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a professional manner. A good communicator wants the give-and-take that is part of a healthy conversation, which means being open to criticism. If you take criticism personally, you will come off as being defensive and people will be hesitant to provide feedback in the future.

Along those same lines, be aware of your body language and tone. Have a positive attitude during the conversation and show that you genuinely care and are concerned about what is being said. Compliment them when they share an interesting point and show them that they are contributing positively to the conversation.

■ **Clarify the point.** At the end of the conversation, offer up a quick clarification just to ensure that everyone is on the same page. You want to double-check at the end of the conversation that each party clearly and correctly understands the point being made. Otherwise, assumptions will be made, leaving room for confusion and frustration to grow, and making the conversation pointless and a waste of time for each party.

**BEWARE OF THE WILDCARD.** These tactics can help you become an effective communicator, but, even still, there’s a wildcard that can disrupt communication – technology. We’ve all experienced an email conversation that only ended up compounding the confusion and frustration among all parties involved. With that said, clear and effective communication is best achieved face-to-face. Always try to communicate, particularly when the point is difficult and challenging, face-to-face and, if that’s not possible, then over the phone. If email is the only option, then follow the points above and have someone else read over the text to ensure that it makes one, concise point and the overall tone is positive. ▲▲

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Nate Bierschenk, marketing assistant, says that most of the marketing it does is “budget-minded.”

“When I first started working at TerraTherm a little more than a year ago, my top goal was to outline a marketing plan to implement for 2013,” he says. “Some of those initiatives that we chose included basic search engine optimization, establishing a presence on social media, developing a company blog, public relations outreach, as well as outbound marketing communications to continue establishing our presence as ‘thought-leaders’ in this industry through our quarterly newsletter, and the articles that we post to the blog.”

All of the above could be categorized as “budget-minded” because most of the work is done in-house.

“Occasionally, we will meet with our ‘virtual VP of marketing,’ a consultant we have worked with throughout the years, to help guide our efforts,” Bierschenk says. “Other campaigns that tend to cost a bit more include trade shows, especially the bi-annual Battelle Conference on Remediation

of Chlorinated and Recalcitrant Compounds in Monterey, Calif., where we have always aimed to have a strong presence.”

Bierschenk adds that thermal remediation, while becoming more popular and “mainstream,” still remains a mystery to some consultants and site-owners who are unsure of how TerraTherm operates.

As a result, education is truly the best form of marketing that TerraTherm can offer. This is done through site-tours, meetings, presentations, workshops, and most recently webinars.

Unfortunately, Bierschenk says that it’s difficult to gauge just how successful its initiatives have been. Why? Because in this industry, increased exposure does not necessarily mean more sales, he says.

“These are big, complicated projects that we work on, and their development may exist in our pipeline for years before implementation,” he says. ▲▲