So You Want to Be a Consultant? Tips from the Trenches

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Introduction

For some OS&H professionals consulting might be the next logical step in your career and for others, it is scary move. Perhaps you have been downsized, rightsized, or simply laid off. It may be because you dislike for working in situations where you think you have limited control over how you spend your workday. Finally, it may be a transitional option between jobs.

Venturing out as a consultant means venturing into a business, no matter why you do it or how you get started. Many OS&H professionals possess exceptional technical expertise and knowledge, but running a business, even doing consulting part-time, requires additional skill sets. Some people have or develop those skills (marketing, sales, bookkeeping, management, and so forth), and some find running a business is not what they want to do.

In consulting, aside from providing training or program development or audits (the technical side), you need to be able to sell your services. You need to have a vision of what you want to do. You need to be able to network and market, and ask people to pay for your services. You need to know what to charge to make a living, or at least cover your basic business expenses. You need to pay taxes and payroll, even if it is paying yourself. In addition, you need to invoice for your services, so you can pay those taxes and the payroll. You need insurance: health, general liability, professional liability, and maybe workers’ compensation. That’s the business side.

Although overwhelming to think about, it is manageable. This paper and the conference session that accompanies it are devoted to providing that kind of information that we, as successful consultants wish we knew when we started. Although we would have still made some mistakes along the way, we know we could have benefited from the wisdom of those who were successfully doing what we were just diving headlong into. Many who have been in the consulting business for numerous years have also wished for a resource that would help us evaluate our business. We wanted something that could help us refresh and revise our current business to help it grow and flourish.

The process of becoming a successful OS&H consultant isn’t easy, in part because while we may all be technically proficient, we may not be business savvy or, at the very least, are limited in our ability to actually run a business, even though we may understand parts of the process. It’s the lack of understanding of basic business concepts and the inability to develop those skills and
abilities that are more likely to derail the best dreams and plans for a successful consulting practice. Even if you have had a significant role in your organization’s management team, running a business on your own requires a different skill set that has to be learned, practiced and mastered.

Consulting will likely require that you step out of your comfort zone, whether that means asking people to pay for your expertise, having to actually invoice for your services (you don’t get paid unless you invoice), having to understand contract language, or learning about social media, you will find challenges along the way. This guidebook will help you identify those challenges, provide ideas on overcoming them, and help you decide if you want to take them on.

This paper features information on three of the most crucial areas that need to be researched by anyone thinking about starting a consulting business, writing a business plan; establishing a corporate structure; and understanding other legal issues; and setting rates. Each of the authors of this paper are successful consultants and will share some basic information to get you started. The information in this paper is adapted from the Consultants Business Development Guide, published by ASSE in 2015; each of the contributors to this paper and the session that accompanies authored a chapter of this book.

**Business Plans**
The consulting business is not for the faint of heart. The most important consideration before moving forward is to clearly understand that consulting is a serious business. The technical work you perform as an OS&H consultant is very different from running a formal business.

A business plan is an essential tool that forces you to think before you act. A business plan forces your mind into thinking through whether you are equipped to start, build, manage and grow your business. Anyone can start a business. That is the easy part. Anyone can fail as well. Keeping a business going by attracting, satisfying, retaining and expanding your client base is what proper business planning will help you do. As you begin to plan your business, consider these questions;

1. Have I ever run a business before? If not, do I know what it takes to do so?
2. Have I taken the necessary time and the required thought to plan for my success?
3. Do I know what my business goals are and how I expect to accomplish them?
4. Do I have a roadmap that will guide all of my business’s operations from financial to sales and marketing to operations?
5. Have I considered what services I will be providing and where I might find clients who will purchase these services?
6. Do I understand what external services I might need to get help with (accounting, marketing, etc.)? Will I get those services from internal partners or external contractors?
7. Have I thought about how I will finance my business? How much start-up money will I need (if any)? Will I need to seek outside funding?
8. Since there are various business structure legal and tax options, do I have a good understanding of the pros and cons for the structure I will be using to start my consulting business?

*The Need for a Business Plan*
Selecting and specializing in a few areas of service will help you hone your expertise and it will make your business planning more manageable. Second, producing revenue takes constant work. Proper business planning will help you to stay focused on meeting your existing and future
clients’ needs. Third, you have to be willing to accept that maybe what you have to offer is not suited for everyone.

A consulting business is a just little about OS&H consulting and a lot about business. Moving into a totally new field that you will need to master may help you make the decision that OS&H consulting is really not what you thought. Going through the rigors of creating an excellent business plan will get you to that decision point quickly.

**Purpose of a Business Plan**

A business plan is a comprehensive document that defines your business goals, how they are expected to be accomplished and who will be accomplishing them. They can be written to target those working within the business to guide their activities. Or, they can be focused externally to address the stakeholders who may be investing in the business and the customers the business is trying to reach. Business plans are comprehensive planning documents which address all aspects required to initiate, sustain and grow a business. They are defined by the business goals and by those who have a vested interest in developing or reviewing them. The size of the consulting firm may also be a determining factor in the breadth and depth necessary for the business plan. The complexity of your plan will depend on your short and long term goals. For example, if your goal is to become a sole proprietor, your plan may only need to contain several elements to ensure you have considered some key issues.

An OS&H consulting start up business plan will need to sufficiently and succinctly address the following questions.

1. What problem will the firm’s product and/or service solve?
2. What niche if any will it fill?
3. What is the solution to the problem and is this solution different from potential competitors?
4. Who are the customers?
5. How will products and/or services be marketed and eventually sold?
6. What is the size of the potential market?
7. How will the firm conduct business to generate revenue?
8. Who are the known competitors?
9. How will a competitive advantage be established?
10. How will the business grow?
11. Who will direct the business operations and decision-making, who will individually contribute, and what external resources will be necessary? Do they have the required qualifications?
12. What are the current strengths, weaknesses, opportunities and threats (SWOT Analysis)?
13. How will the business be resourced and capitalized?
14. What are the legitimate financial projections?
15. Most important, when if ever will it make financial sense to quit your day job?

If you have taken the time to consider these questions successfully, it is time to get to the task of developing your plan…step one on the road to developing your new venture.

**Business Plan Elements**

A business plan should follow a defined outline of major elements. Each of the following elements may not need to be fully addressed within every business plan and some may not need to be discussed at all.
- Executive summary - where you will sell your firm and its capabilities to the reader. In this section you will explain what your company is, what it will do, and why it will be successful – in other words a thumbnail sketch of your entire business plan.
- Mission statement - a concise sentence which clearly states why your company is in business or plans to be in business.
- Company Description - a more detailed review of the nature of your business, the customers you plan to serve, and why your firm has an advantage over the competition.
- Market Analysis - a very important component of the business plan. This section must essentially prove you have a market to serve and that your business can match the needs of the market with what you provide. Defining your target market is at the heart of your success.
- Organization - describe how your business will be organized and managed both directly (day to day) and indirectly (oversight). This section should include your company's organizational structure; specifics regarding who owns your company; who will be managing your company and their specific skills, education and experience; and, depending on how your business is structured, a description of your Board of Directors and their qualifications.
- Business Owners - In this segment of your business plan, you will outline the formal legal structure you plan to utilize in establishing your business entity along with the requisite ownership information. It will define whether your business is organized as a C Corporation, Subchapter S, Limited Liability Corporation (LLC), partnership or limited partnership, sole proprietor or another legal entity defined by your business domicile.
- Products and Services - where your products and services are described. Here, you want to pay special attention to describing how your products and services will benefit potential clients. In particular, you need to show how your products and services are different from other similar firms and why customers will be driven to your firm as compared to potential competitors.
- Lifecycle Implications - if your product or service has a lifecycle or is seasonal in nature, factors that may influence future sales need to be addressed. Although it seems that this would make it difficult to earn a living and have continual cash flow, some firms narrow their scope to these types of activities and are content to do so.
- Intellectual Property - your business may have intellectual property that is in need of protection from unapproved use. Much of what you develop for use with your clients may contain intellectual property. Information with respect to existing or anticipated copyright written materials and products that are or could be patented should be discussed in this section. Trade secrets should also be discussed.
- Research and Development Activities - continually being involved with research and development is crucial to growth and sustainability. The OS&H business has changed radically over the past 20 years. From a broad perspective, safety, health and environmental functions have converged in most work environments. Those consulting practices that have changed with it are surviving. Those who failed to keep pace with the constant change have struggled and in some cases disappeared.
- Marketing - its goal is to create customers who are willing to spend their riches on what you are selling. Without customers, you have no business. Without a good marketing strategy, you have no business being in business!
- Sales Strategy – the first area to address is the sales approach. You will need to assess whether you will use inside or outside sales personnel and how they will be affiliated with
your firm. Additionally how these personnel will be compensated will be a large factor in your success and, potentially, theirs. Second is that sales activity. Sales activities are essentially what you are planning to do to attract customers.

- Funding - necessary for start-up consulting practices, regardless of size. The larger the firm, the higher the start-up cost, but even a small solo practice needs business cards and a computer. Therefore, funding for these basic services must be identified.

- Financial Outlook Projections - if you are serious about this undertaking, financial data will be at the foundation of your business and an important building block of your plan. The purpose of financial projections is to prove that your business can successfully launch, develop, sustain or possibly even expand.

- Control of Information - your business plan is just that...your business plan. Although you will be potentially reviewing its content with others, plans for your business should remain confidential and access to your plan should be controlled.

- Regulatory Issues - there are myriad regulatory requirements affecting your business. These are not the regulations affecting your clients and the services you are performing for them (e.g. OSHA, EPA). Instead, these regulations affect your business with respect to how is intended to be performed. For typical consulting firms, these regulations involve business tax and business proprietor regulations, safety and environmental regulations, and employment law regulations. Numerous others may be applicable as well if you do government contract type of work.

- Plan Revisions - business plans should not be considered a once-and-done project. They need to be reviewed and revised continually, as it is easy for any business to get off track and as the environment in which it operates changes frequently.

- Appendices - these sections should be structured to provide supplemental information to support and augment your business plan. It should not be information previously included within the body of your plan.

**Conclusion**

Starting a business is hard work. Running it is even harder. And sustaining it can be downright painful at times. Anyone who begins a business needs to understand this reality. Believing that you can fail quickly, consuming your life savings or a bank loan is also a reality based starting point. Reality is also understanding at the outset that an OS&H consulting business is very time consuming to get off the ground. It will take away from your “fun” time.

Finally, unfortunately, most business start-ups do not succeed. Although your business will be hard work, proper business planning will make it enjoyable and fun.

**Legal and Regulatory Considerations**

When starting a consulting business, you need to be aware of the legal environment in which you will be operating. This includes determining whether you will work in a single state, or multiple states (or countries), which regulations will apply to your business, what corporate form you will select, and whether you will be an “employer” under the definitions of laws ranging from federal standards such as the Occupational Safety & Health Act of 1970 and the Fair Labor Standards Act (governing wages and hours of work), to local worker’s compensation and unemployment laws.

You need to be careful not to misclassify employees as “independent contractors,” since this is a current area of focus with the US Department of Labor and the Internal Revenue Service and could trigger an audit. If you are going to have others working with you in your consulting
practice and they are bona fide contractors, then contract documents will need to be created to ensure that your liability is mitigated to the extent possible.

Laws and regulations are constantly changing. Therefore, it will be critical to ensure that you are monitoring the statutes, standards and regulations that apply to your area of expertise, as well as those business and tax laws that can have a significant impact on you as a business owner. If you don't have the time or expertise to do this, form relationships with an attorney and tax professional to avoid missteps at the start when structuring your business. The fees for these services should normally be tax-deductible as a business expense.

**Corporate Form Choices**

A major consideration when starting a business is whether your assets will be on the line in the event of a lawsuit. Of course, you will want to carry appropriate professional malpractice insurance, but the choice of corporate form can be critical in limiting liability. Key concerns include considerations of personal financial liability, personal criminal liability, commitment and shielding of personal assets, and whether you will have one or more partners or investors/shareholders. Tax liability, or more bluntly, selecting a form that will allow you to pay minimal taxes and take maximum deductions, is another consideration.

Corporate tax and licensing requirements vary state by state, so professional advice is a must before hanging out your shingle. In addition, federal taxing requirements are constantly updated.

The typical corporate forms include:

- General Corporations (C corporations)
- Close or S Corporations
- Limited Liability Corporations (LLC)
- Partnerships
- Sole Proprietorships

The principal form of business organization is the corporation, sometimes referred to as a C corporation. It has the chief advantage of limiting the liability of its investors. For a newly minted consultant, this may be more bureaucracy and paperwork (in terms of articles of incorporation, bylaws, voting, and distribution of shares) than you will want to deal with. But if multiple consultants decide to band together to form an enterprise, this becomes a more viable option.

Close corporations and S corporations are considered informal, or less structured, business entities. The IRS defines an S corporation as one that elects to pass corporate income, losses, deductions and credit through to shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. This allows S corporations to avoid double taxation on the corporate income. Conversely, shareholders of a close corporation do not enjoy the ability to avoid corporate taxation, and may be subject to double taxation of earnings on corporate and personal tax returns. Because not all states recognize close corporations, this type of business formation may not be available in your state.

Some states offer an alternate form, the LLC (limited liability company), which offers limited personal liability for the debts and actions of the organization. The LLC combines the flexibility of a partnership with the legal shields of a corporation. It can involve a single member (the owner) or multiple members (individuals, corporations, other LLCs and even foreign entities). Because this is similar to a corporation, you will need to file articles of organization with the state
for the record, and have a registered agent. Additional members can be added over time, which allows for investment and expansion of the business enterprise.

Another common business form is the partnership, if you will be going into business with other professionals. A general partnership is created any time two or more individuals form an organization to conduct business as co-owners, to share profits, control and liability. Unlike corporations, in some states a partnership does not require any legal documentation or filing of business records with the government. Each partner serves as an agent of the other, for legal purposes, and can bind the partnership when transacting business such as signing leases or contracts for purchases or services. The downside is that, under most state laws, each partner’s personal assets have exposure in the event that the partnership is sued and loses, and partners are typically "jointly and severally liable" for damages in both contract and tort cases (e.g., personal injury, negligent training or supervision). It may be possible to obtain an umbrella insurance policy associated with other personal insurance to protect at higher levels, but if the umbrella is connected to a home insurance policy, it may exclude liability arising from a business enterprise.

The simplest form for a start-up, single person, business is becoming a sole proprietor. This may be appropriate if you are working out of your basement (and will not need to rent office space), but once your business starts thriving and becomes profitable, there can be adverse tax consequences to this approach, so if you’re considering going solo, consult a tax professional. Moreover, as a sole proprietor, your personal assets will be on the line if you’re sued.

Most states require registration and payment of corporate formation fees, and some even impose property tax on office equipment, which must be considered as start-up and ongoing expenses. This could also be an issue if you are working from a home office, as some of the home furnishings could be viewed as tax-eligible for corporate property tax purposes. Tax and corporate form availability may influence where you choose to locate, or at least incorporate, your business. Generally a business will need to have a registered agent in each state in which it will do business, but check your state-specific laws on this issue. A registered agent is simply a person, available during normal business hours, who can accept service of legal documents on your behalf.

After starting my law firm and consulting practice in 2000 as an “S” corporation (in my case a “PC” or “Professional Corporation”), I needed to apply for small business loans and corporate credit cards. That was when I found that my personal credit score could be affected by the credit usage of my firm and that this information, in turn, could influence public information such as Dun & Bradstreet ratings. This can be important if you want to consult for federal, state or local governments and must pass their contractor screening so you will not want to apply for credit that you don’t really need to operate your business and appear “stretched thin” on paper.

**Contract Issues**

Contracts are just a fact of life in any type of business, and anything related to the business should be formalized, in writing. Handshake agreements often end in litigation and, as I was taught in law school, “A verbal contract is worth the paper it’s written on!” Contracts are generally written by lawyers, for lawyers, and may contain unfamiliar terms, so a professional may be needed to draft (or review) the relevant contracts needed to start and maintain your business.

Many form contracts contain boilerplate language, under which you waive your right to litigate any breaches and must agree to binding arbitration, perhaps under the law of a distant state. Often such "adhesion contracts" are used by large companies when they hire consultants. Sometimes an in-demand consultant can set his or her own desired terms. As in most things, the
party with superior bargaining strength can usually dictate the final terms, but don't be afraid to ask for changes you might feel are necessary (e.g., length of a lease, amounts of deposits).

There are many types of contracts that one could potentially enter into, but among the most common are:

- Contracts for offices and facilities
- Contracts with clients
- Contracts with other consultants (subcontractors) and employees.

If you are not working exclusively from home, but do not need a full-time office, the growing offerings of “office suites” and “virtual offices” may fit the bill, especially because they offer limited clerical support, a telephone receptionist and call-forwarding, photocopying, mailroom, and conference facilities. Often you can do a month-to-month or short-term lease, so your personal financial commitment is limited at the outset.

You may also need to enter into contracts for services with others, to purchase equipment, or to formalize the work agreement terms with clients. If the other party creates the agreement, read the entire contract carefully to understand what commitment you are making. Are you pledging personal assets to back up your fledgling corporation or partnership? The contracts should make clear what recourse there is for breaches, whether you are bound to arbitrate disputes, and where any litigation would be filed. If you are dealing with an out-of-state corporation for services or goods, you may find that you have agreed to be sued in a state other than where your business is located!

For contracts with clients, at a minimum, a contract should clearly describe:

- the identity of the parties,
- an execution date and the date(s) of the services,
- detailed description of the scope of work to be performed (consider whether this will be a single event for the client, or an ongoing relationship),
- the rate(s) being charged (which may vary depending on services provided, such as whether field work or trial testimony is involved) and when those rates are subject to change over time,
- whether you can contract or subcontract out all or part of the work,
- payment schedules and consequences for breach (such as whether reasonable interest will be charged),
- "hold harmless" clauses and disclaimers. if appropriate (for example, a clause under which one or both parties agree not to hold the other responsible for losses or legal liabilities), and
- how breaches will be litigated (trial versus arbitration) and where (your home state, the state where you are incorporated, or the state where the client is located or where your work is performed, are common choices).

Other issues that need to be covered in the contract are: insurance coverage, indemnification in the event that one party gets sued as a result of the other party's negligence, and clarification that you are a contractor and not an employee of the client.

Legal liability arising from activities of subcontractors undertaking activities at a client’s worksite on your behalf can be one of the most difficult risk exposures to address and properly manage. Unless you adequately prequalify and train your subcontractors, or require them to come to you pre-trained and with appropriate certifications, and ensure proper coordination of activities
with all parties involved in a project, you (and your company) can face civil penalties or even criminal prosecution from government safety agencies under multi-employer worksite doctrines. Moreover, you could face wrongful death or personal injury litigation exposure if you are sued by clients or by third parties injured by your subcontractors, or if a subcontractor is injured while performing duties on your behalf at a client’s worksite. When feasible, it is a good idea to obtain copies of subcontractors’ certificates of insurance and, if they are not insured, consider whether they can be included under your own insurance (including your worker’s compensation insurance, under the “statutory employer” theory).

If you are going to prequalify the subcontractors working on your projects, obtain information on the following:

- The corporate form of the subcontractor's business, and state of incorporation (if applicable);
- Whether the subcontractor has petitioned for bankruptcy, compromised with creditors, defaulted on a contract, or caused a loss to a surety;
- Whether there are any claims, arbitration proceedings, or judgments pending or finalized against them;
- Contacts for insurance information, as well as information on the insurance policy type and limits, and whether you will be added as an additional insured;
- References from other contractors or clients for whom the subcontractor has worked in the last three years;
- Licenses and certifications held by the subcontractor, and mandated training received by him or her, where it is required for your project;
- Employees and equipment of the subcontractor that will be used in your work, and documentation that the subcontractor will provide its workers with appropriate personal protective equipment;
- Basic information on the subcontractor’s safety and health compliance (final and pending OSHA and MSHA citations covering a five-year period, copies of the OSHA logs and MSHA 7000-1 forms for the previous three years, workers’ compensation Experience Modification Rate);
- Copies of the subcontractor's safety and health management programs, policies and procedures;
- Information on union representation, and safety and health committee requirements, where applicable; and,
- Documentation on drug free workplace programs and drug testing requirements, where applicable.

**Employment Law Matters**
If you decide to hire assistants or other types of employees to help with specific tasks, such as accounting, or to work with you as consultants, you should decide, upfront, if a contract will be necessary. Whether you need a contract depends on the type of relationship you intend to create. Contracts are desirable for temporary contingent workers and subcontractors who will perform ancillary duties for you periodically. If you hire an assistant to work on a permanent basis, no contract will be needed as most workers are “employees at will” (which means the employment relationship can be ended by either party, without notice or cause) but the terms and conditions (e.g., hours, rate of pay) should be agreed upon in advance.

Most small companies are not covered by the major anti-discrimination laws such as the Civil Rights Act and Americans with Disabilities Act (15 employee trigger), the Age Discrimination in
Employment Act (20 employee threshold), or the Family and Medical Leave Act (covers employers with 50 employees within a 75-mile radius), but there may be state or local analogous laws with lower thresholds. Moreover, all employers are covered by the Fair Labor Standards Act, which governs overtime pay, minimum wage, and child labor matters. Any employee who is not otherwise exempt must be paid overtime if they work in excess of 40 hours in any workweek, regardless of company size. Moreover, some states have higher minimum wages than the federal law, so ensure that any support personnel you may retain are paid appropriately.

Also bear in mind that there are a few exceptions to employment at will, including circumstances where there is an actual signed contract (express contract) or where an employee handbook, policy or other evidence (e.g., an offer letter or emails) create an "implied contract." Courts may find that an employer must honor such implied contracts but it is a case-by-case determination based on the facts. There are also commonly recognized exceptions to employment at will based on public policy, such as protection of safety and regulatory whistleblowers, and breach of the covenants of good faith and fair dealing (only recognized in some states).

The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for employers with to fire or refuse to hire a person on the basis of that person's national origin or citizenship. It also forbids the hiring of people illegally in the United States. Whenever you hire anyone, you must complete an USCIS Form I-9 "Employment Eligibility Verification" for that person. That form requires that you verify both the person's identity and his or her eligibility to work in the U.S. You need to do this for all people you hire - you cannot request employment verification from only people of a certain national origin or only from applicants who appear to be from a foreign country. An employer who has citizenship requirements or gives preference to United States citizens may violate IRCA. There are exceptions that allow an employer to refuse to hire an alien worker, such as where citizenship is a "bona fide occupational qualification," (e.g., if you are performing work for the federal government on a defense contract where a security clearance is required).

What about OSHA?
If you want to work as an occupational health and safety or environmental consultant, the last thing you need is to develop a public track record of non-compliance with OSHA, MSHA or the EPA. These days, the agencies have detailed databases on their websites that detail what you are accused of doing wrong, the proposed penalties, and whether the citations and penalties were upheld. Information about your injury and illness history is also available, and there are even ways to learn the precise overexposures measured when the DOL conducts health sampling of your employees.

An obvious question is whether a consultant even falls under the jurisdiction of these agencies. The answer, of course, is "maybe." OSHA does not have coverage unless a company has employees (which is what defines an “employer” under the OSH Act), so if you have none and are a sole proprietorship or partnership, you are in the clear and could get citations withdrawn on that basis. But if you have formed a corporation, then you and others working for the corporation are probably classified as its employees.

Beyond the safety, health and environmental laws with which you need to comply, when starting a consultancy practice, you will need to see what state-specific regulations govern your enterprise. As an example, the state-based workers' compensation insurance requirement thresholds vary widely from state to state - I learned, when I started my practice in Maryland, that because I had formed an S corporation and was its employee (the only one, initially), I had to
purchase workers' compensation insurance to cover myself. Other states do not require insurance unless there are five or more employees. Some states allow owners to opt out of workers' compensation, only requiring employees be covered. Again, checking with professional advisors can save time and money in making the correct decisions at the outset.

Failure to carry mandatory workers' compensation insurance or to comply with other state and federal safety, environmental and licensing regulations, as well as the employment laws discussed above, can trigger penalties but can carry other reputation-based consequences, including exclusion from participating in federal and state contracts (known as "debarment") or even stripping away your professional certifications.

Conclusion
In summary, there are a multiplicity of legal and regulatory concerns associated with any startup business, but a consultancy in the occupational health and safety or environmental field can pose some unique challenges. You do not have to go it alone. There are many qualified attorneys, accountants, tax professionals, human resources consultants and even companies that manage payroll for small businesses, to guide you on your maiden voyage into the world of consulting.

If you approach your business plan with the same due diligence you would exercise in preparing advice for a client, you will be able to master the obstacle course! Do not be afraid to ask questions and to get second opinions, where needed. As Mark Twain famously said, "It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so."

Financial Considerations
Some of the most common Occupational Safety and Health (OSH) consulting questions are: What rate do I charge? How do I figure out a dollar value for the work or project? Here are some ideas so that you can be not only a qualified consultant but a financially successful one too!

Determining Rates
Setting a rate is an important part of the consulting business. It makes sense to spend some time thinking about what your rates should be and why. Keep in mind, you can always adjust your rates along the way, but if you start off too low, quickly transitioning to a higher rate might be difficult for existing clients. On the other hand, starting with rates that are too high might keep you from acquiring clients, but depending on the client, the industry or the type of work, high rates may be appropriate. There are different types of clients who are looking for different types of services. The price they will pay varies tremendously. Being successful as a consultant means finding clients that are the right fit for you and what you offer.

Ok, so let’s get to the discussion of rates. There are a variety of approaches in the management and engineering consulting literature. Keep in mind that even if you use a logical approach to setting your rates, the market will ultimately determine how high your rates can be for a given type of project. And that assumes that the services you wish to offer match up to what your potential clients want to buy. It takes both the right type of services and the right rate to be successful in consulting.

Rate options - Multipliers
The multiplier is commonly used by engineering firms to determine the basic rates (ACEC, p. 1). Engineering is the closest field to OS&H and often is a good starting place. For an idea of multipliers used in other professional disciplines, see the article by Higgins called The Successful Consultants Guide to Fee Setting, (2010, p. 23). To use this approach, start by determining your proposed salary. For example, let’s say you are an experienced OS&H professional with
significant experience, an advanced degree or designations such as a CSP or CIH and your goal is to have a salary of $100,000 per year. Divide that salary by 2,080 hours (40 hours a week, 52 weeks a year) and you will get to $48.10/hour. This is the base. Multiply the base by your set multiplier. Environmental engineering firms often use some rate between 3 and 4. So if we use 3.5, then the hourly rate will be $168.35 and the daily rate will be $1,346.80. It is easiest to then round to the next $5 or $10. So then the hourly rate might be $170 and the daily rate might be $1,350. In this example, if you billed 2,080 hours a year, the gross revenue for your firm would be $353,600. Sounds great doesn’t it? Consulting is looking really good!

Not so fast…. If you start a firm as a solo consultant, you will still need to perform administrative and marketing functions, take vacations, holidays and sick time, pay for insurance such as health, liability, unemployment, workers’ compensation, attend conferences for professional development and cover other business expenses and taxes. So what may look like profit or additional compensation is really the cost of doing business. Here is the other challenge---When you are starting out and working solo, only about 50% of your time will realistically be billed (Coutu, 2013, p.1). With experience, and depending on the amount of administrative and marketing support you have (and that costs money), I have found that 65% is realistic. Now let’s look at the example again using 50% billability.

Salary of $100,000 divided by 1,040 potential billable hours (2,080 divided by 2)

\[= \$96 \text{ base hourly rate} \times 3.5 \]

\[= \$336 \text{ billing rate per hour} \]

So a rate of $336 per hour might be appropriate depending on the industry you are working in and your degree of knowledge, but it might be too high if you are competing with lots of other similar SH&E consultants. Let’s look at the example again for an experienced consultant who is able to bill 65% of his or her time. In this case, the hours worked would be 1,352 and the base hourly rate would be $74. This would produce an hourly rate of $259 or $260 after rounding. This rate may be more competitive and still allow a good income, depending on the type of work and the geographic area.

Sometimes firms use a different multiplier for different client industries. In the case of OS&H, you might use a multiplier of two or slightly less for commodity work that can be done by many consultants in the field. Examples of commodity work in OS&H could be: the writing of safety policies and procedures for standard OSHA topics such as respiratory protection, hazard communication etc., or basic level safety training in that type of topic. This is the kind of work that an associate level staff OS&H professional is qualified to perform. Using the example above with 65% billability, multiplying the rate of $74 per hour by a multiplier of two would bring the hourly rate down to $148. Depending on the market - that could still be too high and could price you out of the market. Think about the type of consulting work you will be offering when considering your salary goal. Unless you are willing to work considerable hours beyond 40, it’s not likely that you’ll be able to draw a $100,000 salary by just selling time based on commodity OS&H work. Either your salary will be lower or the complexity and quality of the consulting work being offered will need to be greater. So consider your salary goal based on the market, not just what you consider to be your worth or what you need for income. This moves us to addressing competitive rates.

Rate Options - Competitive Rates
In some cases, it’s simple to just match your rates to the competitor’s rates. When using a competitive rate, think about where you want to be in the market. Do you want to be at the high, median or low end of the market? The continuum of OS&H services is broad - your education, designations, experience, the type of industry, and the amount of competitors can affect the value of the services offered. Are your services high end, meaning they add more value, require a higher level of expertise, utilize a proprietary methodology or provide something different? Are your services mid-level and have some barrier to entry such as a CSP or CIH designation? Or, are your services commodity services that could be provided by a safety professional with a couple of years of experience? Keep in mind, there is nothing wrong with commodity services! Just understand that at lower rates, you will need an efficient system to produce the consulting volume needed to make the financials work long-term. One way to do so is to hire junior level staff to provide commodity services while you engage in more challenging and lucrative projects. Just remember, that the revenue produced has to cover not only your salary and benefits (and potentially employee salaries), but taxes and all the other expenses of a business.

Once you know the level and type of services, how do you actually find out what your competitors are charging and what the “going rate” should be? This will depend on the type of service. For training that may be offered on an open enrollment basis, all it takes is an internet browser search (i.e. Google, Bing, Safari, or Yahoo). Think about how to differentiate your offering if what looks like the same service is offered online. It is possible to market the value of live courses vs. online ones. What would make your services more attractive to a client?

Another way to determine the “going rate” is to utilize your network of colleagues to find someone who might be offering or buying similar services but is not in your geographic area. Consider two or three colleagues who you know in the OS&H field and ask those who are working outside of your market area. They may be willing to give you an idea of what they have seen or are charging. Understand that not everyone will be willing to share. Keep in mind that price fixing is illegal (FTC, p.1), so don’t expect to have a consultant’s professional meeting and all agree upon a price! The idea is to validate your calculations in the market, not to have all competitors agree to set the same price. You will still need to test the market based on your skills and experience and the services you offer. Your price may be the same as a competitor, but should be derived based on your own method.

Conclusion

This paper and the conference session that accompanies it, addressed three of the fundamental areas that require upfront consideration and research prior to beginning. Taking the time to understand the ramifications of each area will not guarantee success, but will certainly provide a path to a better starting point.

OS&H consulting is a very rewarding way to practice this profession. But no matter what level of technical skills you possess, running a business requires mastery of a completely different skill set. Anyone considering starting a consulting business needs to learn this separate set of skills.

Bibliography


