

VENTURES

QUARTERLY NEWSLETTER FOR SMALL, MINORITY- AND WOMAN-OWNED BUSINESSES

Achieving Organizational Excellence Strategies for the “High Performance Organization” Model

By Jeff Parks and Ellen Gray, Performance Breakthrough, Inc.

First in a four-part series.

Ask yourself: What’s the best organization I’ve ever been a part of? Why was it so good? What was done to build it and to sustain it? Most organizations focus on building pieces of organizational excellence, but few address it holistically and directly by simultaneously considering the needs of customers, staff and the organization’s mission and/or vision.

A high performance organization (HPO) framework involves six major levers that lead to organizational excellence by aligning customer needs and wants, mission/vision accomplishment, and ongoing staff commitment. Think of the framework as a means to grow and strengthen your organization, thus positioning it for desired ends related to mission, vision and values.

Here is a more detailed overview of the HPO framework:

1. Vision/Strategic Planning

High performance organizations know where they are going. They have clearly defined their vision (picture of success for there to five years ahead), their mission (why they exist), and their strategies (levers for accomplishing the vision). They have also clearly articulated their core values (behavioral and social norms) and use those in their recruitment, screening, hiring, orientation and performance management systems.

2. Customers

Organizations need to know who their true customer is and those customers’ needs and wants. High performance organizations not only delight the customer for current needs and wants, but they also anticipate and deliver on future or unrealized needs.

3. Leadership

Leaders define the vision for the organization and the path to get there. Leaders also help shape the

What is a high performance organization (HPO)? It’s an organization that is the best it can be, that has all six of the required elements, and all of those elements are integrated with each other.

culture—by their words, their actions, what they choose to focus on and support, and what they avoid. Managers help execute the vision—through effectively balancing the accomplishment of projects/tasks and meeting the needs of the workforce.

4. Employee Commitment and Competence

Commitment is the “willingness.” Competence is the “ableness.” When you maximize both, you will maximize your workforce’s performance.

5. Performance Measures

Organizations measure so that they can manage better. If you really want to influence employee (and leader) performance, look at what your organization measures and rewards. We advocate creating a mix of measures that matter—including strategic and managerial—and “mapping” to the outcomes you identify in your vision/strategic plan.

6. Change Management and Implementation

This is all about winning hearts and minds for the “change effort.” The change might be the implementation of a major piece of software, a new policy or direction, or a change in organizational structure. Change efforts should leverage the driving forces

already in place and minimize the resistance forces. When people find a WIIFM (What’s In It For Me?), they’ll usually buy-in and get on board. Leaders must be able to articulate how the change will improve the organization and how it will affect them before this can happen.

What’s Next?

Where is your organization right now? What are the potential gains that can come from committing to this journey? Imagine if your workforce was excited to come to work every day and brought their whole self to the table? Even if you can’t “fix” the overall organization, you can help your department or team become an “island of excellence.” We hope you find something in here to help your journey to organizational excellence.

Potential results of the HPO Framework

Describing HPO, or organizational excellence, in results-based terms should be one of your early steps, since it both increases the motivation levels and clarifies the picture of success.

Here is a short list of potential HPO outcomes:

- The organization retains its “all stars” and they feel valued/equipped for excellence
- Our employees bring energy, commitment, and “their whole self” to the organization
- Those all-stars bring more all-stars into the organization
- Clients feel delighted (with the outcome and the experience) and they bring the organization new business (extending/expanding their contracts or giving referrals to others)
- The organization has a vision and strategic plan to guide its management and budgeting philosophy and decisions
- The core values drive the behavioral/social norms to achieving the desired culture
- The organization’s reputation and financial standing are solid and enduring

The second article in our four-part series will be on defining and developing a strategic direction. ■

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FCEDA and Partners Spotlight Woman- and Veteran-owned Businesses

In February, more than 200 people attended “New Year, New Opportunities: Set-Aside Programs and Certifications for Woman-Owned Businesses,” presented by the Fairfax County Economic Development Authority (FCEDA). The symposium was held in partnership with the Community Business Partnership, the Women’s Business Center of Northern Virginia and the Women Presidents’ Educational Organization.

“Woman-owned businesses are one of the fastest-growing segments of the U.S. business community and, we are proud to say, a significant component of the Fairfax County economy,” said Gerald L. Gordon, Ph.D, president and CEO of the FCEDA, who outlined the benefits of a growing and diverse business community. “We want to attract even more woman-owned businesses here and highlight new opportunities in the federal contracting arena for business women.”

The symposium included an overview of the U.S. Small Business Administration’s “8(m)” program being implemented this year that mandates set-asides for qualifying woman-owned businesses. Other highlights included a presentation on the Small, Women and Minority-Owned (SWaM) Business Certification program of the Commonwealth of Virginia and a review of recently published U.S. Census Bureau Survey of Woman-Owned Businesses.

In March, the annual “Veterans in Business Conference,” sponsored in part by the FCEDA, focused on building relationships among veteran business owners, prime contractors and federal government officials. Held at the Mason Inn and Conference Center, workshop topics included how to start a veteran-owned business, development through mentor protégés, subcontracting strategies and compliancy with the Defense Contract Compliance Agency.

“The emphasis on veteran-owned businesses is a means of thanking those who have served in our armed forces,” Gordon said. “Because of our proximity to the federal government and our highly skilled workforce, Fairfax County is a perfect location for veteran-owned businesses.” ■

Top: “New Year, New Opportunities” symposium partners pose with the FCEDA’s Gerald Gordon (far left) and Karen Smaw, director of small and minority business development (fourth from right).

Bottom: During the luncheon and in the exhibit hall, 200 Veteran’s in Business Conference attendees spent time networking.



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The Fairfax County Economic Development Authority (FCEDA) promotes Fairfax County, Virginia, USA, as a world-class center of commerce and trade and the technology hub of the east coast. The FCEDA assists businesses interested in locating, relocating or expanding their commercial office or industrial operations in Fairfax County. Services are available on a confidential, no-cost basis. As an independent authority created under state law, the FCEDA operates under the direction of seven Commissioners appointed by the Fairfax County Board of Supervisors. Its activities are funded by Fairfax County.

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IN THE SPOTLIGHT

Fairfax County Board of Supervisors Proclaims Small Business Week

The Fairfax County Board of Supervisors proclaimed May 16-20 as Small Business Week in Fairfax County in keeping with the celebration of 2011 National Small Business Week. A resolution passed by the board noted that more than 90 percent of all businesses in Fairfax County are small and small businesses diverse in ethnic background and industry sectors create thousands of jobs in the county every year.

“Certainly we all see the headlines when another national corporation comes to Fairfax County, but what you don’t see often enough is the role of small businesses in our county,” said Supervisor Linda Q. Smyth (Providence District). We hope that this will remind people of the important role they play in our economy.”

Gerald L. Gordon, Ph.D., president and CEO of the Fairfax County Economic Development Authority (FCEDA), thanked the Board of Supervisors for issuing the proclamation and resolution, and cited the role that support organizations play in small businesses.

“We have chambers of commerce that advocate for small businesses around the county, but we also have a variety of organizations—some public and others private—that not only help businesses take the next step, but also encourage budding entrepreneurs to take the first step,” Gordon said.

The FCEDA placed ads in the May 9 and May 16 issues of Capital Business, a Washington Post publication, and the May 13 issue of the Washington Business Journal, recognizing more than three dozen organizations that support development of the small business community throughout Fairfax County. ■



The Importance of Protecting Confidential Business Information

By Brian Darville, Brocadiant IP PLLC

First in a two-part series.

In late November 2010, a federal jury awarded Oracle \$1.3 billion in damages based on its claims that SAP and TomorrowNow, Inc. had infringed copyrights in Oracle's confidential documents and software integral to Oracle's relationships with its customers. It also awarded Oracle more than \$14 million in prejudgment interest, and \$120 million for past and future reasonable attorneys' fees and costs.

SAP allegedly used a web scraper software program to extract the documents and software from password protected customer areas of Oracle's web site. In addition to copyright infringement, accusations were based on the Federal Computer Fraud and Abuse Act, California's Computer Data Access and Fraud Act and myriad state law claims.

That verdict, which undoubtedly will be appealed, underscores the importance of confidential information, highlights the need to take reasonable steps to protect confidential business information from competitors, and suggests the importance of establishing trade secret protection plans to protect confidential information and garner the benefits of state and federal trade secret laws.

Almost every business today owns trade secrets of one kind or another. A trade secret can be information of almost any kind so long as it is confidential, protected by reasonable precautions, and not readily accessible through available public materials. Trade secrets can be as simple as a customer list, a marketing plan or the formula for Coca-Cola, or as complex as a manufacturing process, or other scientific formula. To qualify as a trade secret the information at issue must confer a competitive advantage when kept secret and be protected by reasonable secrecy precautions.

Trade secrets are protected under state and federal laws. Most states have adopted the Uniform Trade Secrets Act or some version of it.

Virginia Uniform Trade Secrets Act

Under the Virginia Uniform Trade Secrets Act (VUTSA), a trade secret is defined as information such as a formula, pattern, compilation, program, device, method, technique, or process, which derives actual or potential independent economic value from not being generally known or readily ascertainable by those who can obtain economic value from its disclosure or use.

Under the Act, a company claiming that its trade secrets have been misappropriated, must prove that the information at issue is a trade secret, and the defendant improperly acquired, used, or disclosed the information. "Misappropriation" of a trade secret is defined as the acquisition of another's trade secret by an individual who knows or has reason to know that the trade secret was acquired improperly.

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Examples of acquiring a trade secret "improperly" include bribery, misrepresentation, espionage through electronic or other means, and breach of a duty or inducement of a breach of a duty to maintain secrecy.

Remedies for misappropriation of trade secrets under the VUTSA include:

- Damages
- Disgorgement of profits resulting from the misappropriation
- Royalties
- Punitive damages
- Attorneys fees

Under the VUTSA, a court can order injunctive relief for actual or threatened misappropriation, and the injunction can be extended even after the trade secret ceases to exist for a reasonable period of time in order to eliminate commercial advantage that others would gain from the misappropriation.

Because several of the remedies under the VUSTA are equitable in nature, courts can fashion relief to ensure that a company whose trade secrets are misappropriated is adequately compensated. For example, in *American Sales Corporation v. Adventure Travel, Inc.*, 862 F.Supp. 1476 (1994), the court awarded damages in the form of royalties to compensate a company whose supplier used the company's customer list to start a competing business after the business relationship between the company and supplier ended. The court held that royalties were the appropriate remedy because the lack of significant profits made by the infringement should not prevent just compensation.

Federal trade secrets laws include the Electronic Espionage Act and the Computer Fraud and Abuse Act.

Electronic Espionage Act

The Electronic Espionage Act of 1996, known as the "criminal trade secrets statute," gives teeth to legal actions, and recognizes that trade secrets have substantial value and can be converted or destroyed. Under the

EEA the government must prove beyond a reasonable doubt that the defendant acted with specific intent to convert the trade secret with knowledge that the trade secret was proprietary or closely guarded, attempted to or conspired to convert the trade secret for the economic benefit of anyone other than the rightful owner, and intended or knew that the conversion would injure the trade secret's lawful owner.

For example, in December 2010, a former Goldman Sachs Group, Inc., programmer was convicted of violating the EEA, for allegedly stealing the investment bank's confidential source code for its high speed trading system. Goldman Sachs had required its employees to sign a confidentiality agreement as part of their employment, which provided that any software created as part of their employment belonged to the bank.

Federal prosecutors had alleged that the programmer had secretly copied the source code and uploaded it to a server in Germany so that he could allegedly use the code to build a similar software program for his new employer.

Penalties under the EEA can be severe, ranging from \$250,000 and ten years in prison for individuals and up to \$10 million if done by an organization to benefit a foreign government.

Computer Fraud and Abuse Act

The Computer Fraud and Abuse Act (CFAA) is a complex federal statute that creates several computer-related crimes, many of which implicate national security, but several of which involve unauthorized access to and use of computers in interstate or foreign commerce.

A person violates CFAA by knowingly transmitting a program, information, code, or command, and as a result of that conduct, intentionally damages a protected computer without authorization. Transmission can occur via the Internet or through a physical medium such as a compact disc.

The CFAA should be consulted in seeking to redress any unauthorized access to a computer or other device as the CFAA includes crimes that may be implicated by such unauthorized access resulting in damage. For example, in *Meridian Financial Advisors v. Pence, et al.*, No. 1:07-cv-009950LJM0TAB (S.D. Ind., January 14, 2011), the court held that a former corporate officer's alleged unauthorized deletion of an email from a company computer stated a cause of action under the CFAA.

Part two of this series will conclude in the third quarter issue of Business Ventures. ■

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FYI . . .

... **The Fairfax County Economic Development Authority (FCEDA), in partnership with the Virginia Department of Business Assistance (DBA) and the U.S. Small Business Administration (SBA)**, conducts a monthly workshop for individuals interested in starting a business in Fairfax County. The workshop provides an overview of start-up basics (licenses and permits); DBA workforce service and training programs; and SBA resources, financing and certification programs. The workshop is held the first Tuesday of each month from 7:45 AM–10:30 AM. There is no cost to attend, but pre-registration is required. The remaining 2011 workshops are September 13, October 4 and November 1. For more information or to register for the workshops, visit www.fairfaxcountyeconomicdevelopmentauthority.org/sb_seminar.htm, or call 703-790-0600.

... **Small Business Date Book**: Looking for a business event or class in Fairfax County? The FCEDA produces a Small Business Calendar of Events designed especially for entrepreneurs plus many of the local chambers of commerce and business organizations also host events open to members and nonmembers. Visit the online calendar at www.fairfaxcountyeconomicdevelopmentauthority.org/fceda-events-calendar. If you would like to submit a business-related event for inclusion in the calendar, contact the FCEDA at 703-790-0600.

... **The 7th Annual Access to Success Business Conference** is scheduled for August 11, 2011. This year's theme is "Expanding Virginia Exports to Korea." The conference location is the Fairview Park Marriott. For more information or to register, visit www.vaexport2011.com.

... **The Fairfax County Department of Purchasing and Supply Management Agency, Contracts Division**, conducts a free monthly workshop on "Selling to Fairfax County." The workshops are held the third Wednesday of each month. You will have an opportunity to meet staff from the County's Purchasing department, become familiar with the County's procurement process and discuss upcoming contracting opportunities. All workshops are free of charge and are held at the Government Center Complex, 12000 Government Center Parkway, Fairfax Virginia from 8:00 AM–10:00 AM. For more information or to register, visit www.fairfaxcounty.gov/dpsm/osb/workshop.htm or call 703-324-3201.

... **The United States Hispanic Chamber of Commerce (USHCC) Convention & Business Expo** is scheduled for September 18–21 in Miami, FL. Each year, the USHCC hosts its National Convention and Business Expo featuring hundreds of exhibitors from the United States and abroad. The convention is the country's largest networking venue for Hispanic businesses and Fortune 1000 corporations interested in the Hispanic market. Over four days, the national convention affords Hispanic vendors and corporate buyers the opportunity to establish partnerships where business opportunities can flourish. In addition, the convention offers various sessions and discussions on business development, chamber training, innovative business trends and solutions, as well as a focus on current issues that impact the Hispanic entrepreneur. For more information, visit www.usfcc.org. ■

SCORE COUNSELING AT THE FCEDA

The Fairfax County Economic Development Authority (FCEDA) provides business-counseling services through an arrangement with SCORE, Counselors to America's Small Business. SCORE is a U.S. Small Business Administration initiative dedicated to entrepreneur education and the formation, growth and success of small business nationwide. More than 11,200 volunteer counselors provide individual mentoring and business workshops for aspiring entrepreneurs and small business owners. A SCORE counselor is available every Wednesday at FCEDA headquarters in Tysons Corner, Virginia, by appointment only. Sessions are one hour in length. To schedule an appointment, contact the FCEDA at 703-790-0600.

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