How Would You Handle These Ethical Problems?

Tips for applying the Code of Ethics to your everyday work life

BY JOSEPH P. KANE

Everyone certified by the American Welding Society — Senior Certified Welding Inspectors, Certified Welding Inspectors, and Certified Associate Welding Inspectors — is obligated to adhere to the Code of Ethics printed in AWS QC1, Standard for AWS Certification of Welding Inspectors. It’s one thing, however, to agree to follow the Code of Ethics in the abstract; it’s quite another to know what to do when faced with a real ethics-related dilemma out in the field.

The following scenarios describe situations you could be faced with and offer some tips on how to respond to them. While all are based on my own experiences and observations, many facts have been changed. They are offered here as examples of situations you could be faced with during your career. I also suggest you read the latest version of the Code of Ethics, which can be found in the Just the Facts section on page XX of this issue of Inspection Trends.

Would you take a bribe? What is your definition of a gratuity? Is a free cup of coffee and a bagel a bribe?

I was the inspector on a welding operation that required backgouging to a depth of 3/8 in. with a 3/4-in. radius and 20-deg bevel angles. Afterward, the groove was to be cleaned and backwelded. The contractor hired two welders from outside and an owner/operator with his own rig. The contractor had two 225-A, air-cooled, engine-driven power sources for the two outside welders, and two 9-in. side grinders for backgouging. The owner/operator had a 650-A machine and air carbon arc gouging equipment including a gasoline-engine-driven compressor, and other metalworking tools.

The owner/operator, using a 3/8-in. carbon arc gouging rod and 3/4-in. E7018 electrodes, properly backgouged, ground, and completed 16 ft of joint the first day. By comparison, the contractor’s welders used the side grinders alone for gouging and 3/4-in. E7018 for completing the joint. The two outside welders, with their contractor-provided equipment, welded 3 ft each. To compete, they tried to get away with just backgrinding 3/4 in. deep, then to 3/4 in. deep, and even to 3/4 in. deep all with less than a 3/4-in. radius. As the inspector, I had to keep them from backwelding until they ground to the proper depth and radius.

In the middle of the second day, the contractor stormed over to me and said, “Why are you giving my men such a hard time? Don’t I buy you coffee and a bagel in the morning?”

I was furious! I said, “You’ve got nerve thinking you can buy my integrity for a cup of coffee and a bagel! Besides, I don’t drink coffee!” I instantly regretted saying it that way because it could have been construed that I wasn’t being offered enough. I have always had a policy of never accepting even the smallest favor from a contractor. The lesson in this story is that the contractor expected quid pro quo because he thought he was buying me a two-dollar breakfast.

In this case, Section 11.4.3 of the Code of Ethics applies, which reads as follows:

The CWI, CAWI, shall not solicit or accept gratuities, directly or indirectly, from any party, or parties, dealing with the client or employer in connection with the SCWIs, CWIs, and CAWIs work.

How deep are our obligations to enforcing the Code of Ethics?

Now put yourself into this scenario. You are a third-party CWI for an inspection agency at a large fabrication facility, performing quality assurance (QA) for a state agency. There is a CAWI from a small third-party testing laboratory working for another state agency on another project. You observe that the CAWI has been working alone (unsupervised) for several months.

Paragraph 4.4 of AWS QC1:2006, Standard for AWS Certification of Welding Inspectors, reads:

The CAWI is able to perform inspections, under the direct supervision of a SCWI or CWI within visible and audible range, and as defined for the CAWI as in AWS B5.1, Specification for the Qualification of Welding Inspectors. It is the SCWI or CWI, however, who has responsibility for certifying that welded assemblies conform to workmanship and acceptance criteria.

Paragraph 11.2.1 states that the SCWI, CWI, and CAWI shall “undertake and perform assignments only when qualified by training, experience, and capability.”

In addition, Paragraph 11.6 defines “unauthorized practice” as follows:

Any violation of any part of the standard of conduct prescribed by this standard if related to a SCWI’s, CWI’s, or CAWI’s occupation, including any violation of the Code of Ethics contained in this standard, shall constitute an unauthorized practice subject to the imposition of sanctions.

So what should you do? Clearly the CAWI appears to be in an “unauthorized practice” situation and in violation of the standard of conduct. Are you obligated to turn him in to the Ethics Committee? No, you are not, although I personally hope you would. Unqualified inspectors give the profession a black eye. However, you are not a policeman, and it is not a violation if you do nothing. Even the CAWI’s employer is not in violation, only the CAWI.

The CAWI may see himself as being stuck between a rock and a hard place. He knows he is not allowed to practice alone.

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His employer probably knows it, too. His employer may try to rationalize the situation or say the CAWI is actually working as a “Level II.” However, the bottom line is that a CAWI may not perform weld inspection unsupervised. One option is to turn in his CAWI credentials.

**Welcome to a trickier portion of the Code of Ethics.**

Paragraph 11.5.4 states: The SCWI, CWI, or CAWI shall not disclose proprietary information, (i.e., commercially valuable information not generally known) concerning business affairs or technical processes of a present or former client or employer, without their written consent, except as necessary to perform the duties of a SCWI, CWI, or CAWI.

You find yourself at a facility that does not allow any photographs to be taken. As the third-party inspector you are required to photograph the general work progress and any defects or repairs. You remind the shop owner that he is contractually obligated to allow you to take pictures. The shop owner reluctantly agrees, but says that you cannot photograph any proprietary processes or the equipment. You generally agree to this, because you do not see any equipment that you haven’t seen in ten other shops like this, and the process is rather straightforward for heavy steel fabrication. The shop owner also makes you agree that you will only take pictures with the floor manager present, so that he can be sure that you do not photograph the company’s business secrets.

One day you take a picture of defective work on a fabricated item. The shop owner says you cannot keep that photograph because it reveals a business secret. You have seen this process many times and feel that he is just posturing. You challenge him to explain what could be secret. He does. The shop owner is under the impression that the sequence of fabrication that he uses is unique and gives him a competitive edge. You have seen this sequence before and you know it is not unique. While it is the most efficient way to fabricate the item, in this case it caused a problem, which you are required to take pictures of and include in your report.

Can you call your employer and relate what has happened? Can you tell your employer why the owner wants to stop you from sending in that picture or reporting the details of this defect? Are you in violation simply by telling your employer?

The shop owner is under the impression that he has a unique sequence that gives him a business edge. You are obligated to your employer, and the shop is contractually obligated to your employer. You are also obligated to safeguard “proprietary information (commercially valuable information not generally known).”

So what’s the easy answer? I’m afraid there isn’t one. I’m not a lawyer; you probably aren’t a lawyer either. To you, the shop owner’s fabrication sequence is not information “not generally known,” but instead is Fabrication 101. To the shop owner, it is “commercially valuable information” that gives him an edge in the bidding process. If it went to court, a jury may decide against you.

I can tell you, however, that it was the intention of the AWS Certification Committee when this was written that you could reveal this information to the contractual employer. It is necessary to perform your inspection duties and document the defect and the repair. You may not reveal this information to others.

**Is it unethical to make a bad call?**

In a word, no. Everyone makes mistakes. It is not an ethics violation to make a mistake, or even a series of mistakes, if by making a mistake you unintentionally made a bad call. For example, if you use a bridge cam gauge and report that there is excessive reinforcement on the joint and someone comes along behind you and discovers that you measured it incorrectly, it is not an ethics violation. If you mistakenly accept a %/in. fillet weld where %/in. fillet welds were called for, it is not an ethics violation. If you mistakenly apply the wrong acceptance criteria, it is not an ethics violation.

If you do not have a gauge or other tools adequate for the inspection available and you make a number of “bad calls” (because of the lack of inspection tools), which you put in your report, you could be charged with a violation of the following:

Paragraph 11.2.4. Be completely objective, thorough, and factual in any written report, statement, or testimony of the work and include all relevant or pertinent testimony in such communiqués or testimonial.

If you had conducted that whole inspection without a gauge and omitted that fact from your report, I doubt the Ethics Committee would consider you to be factual about all relevant or pertinent testimony in your report.

**Who can demand to see my credentials?**

Imagine this scenario: You are assigned to perform QA inspection at a medium-sized structural fabrication facility. You are performing third-party inspection for the state school construction authority. The contract between the facility owner and the authority requires the owner to grant you unlimited access to the fabrication facility.

There is no QC department at this facility and you could probably save a whole forest if you only had to write up what they did right, instead of what they did wrong.

You soon find yourself in an increasingly hostile environment because the facility wants you out. “We never had this kind of trouble before you came along. How come you are the only inspector who ever came up with this (censored)?”

The owner says, “I want to see your CWI card. I don’t believe you are qualified.”

Do you have to present your credentials to him? Check with your contract administrator before you do so. You do not work for that company, you work for the state agency. It is unlikely the owner of the fabrication facility has the right to demand anything of you.

Keep in mind paragraph 11.2.2, which states: Present credentials upon request to persons authorized to examine them.

In the circumstances described, it would be unusual for the owner of the facility to be “authorized” to examine your credentials. It was a harassment and intimidation tactic, and you do not violate the Code of Ethics by resisting it.

**Making Some Tough Decisions**

**Where ethics violations become routine.**

At one governmental authority, altered and forged CWI credentials reach astounding numbers. It gets several forgeries of some sort each year. The forgeries are typically doctored wall certificates. The other examples are documents stamped with CAWI stamps with the “A” cut out, or currently dated documents stamped by a CWI with an expired number. Sometimes the space between the “C” and the “W” on the stamp shows that the “A” has obviously been cut out.

A contractor doing work for the authority is required to use a current CWI or SCWI. The authority typically becomes aware of the forgery when the document has a lot of mistakes in it. The certification numbers are checked through the American Welding Society and the forgery is revealed.

11.2.3. Neither falsely represent current status nor seek to misrepresent the certification level (SCWI/CWI/CAWI) by modifica-
tion of certification documents or false verbal or written testimony of current level or status.

Unfortunately, the authority does not want to get involved in prosecuting the forgers, and will not even give the information to AWS so that the Ethics Committee could pursue the offenders.

As a contractor, how can you avoid becoming the victim of a forgery?

A small testing laboratory’s management hired a CWI, whom they knew to be an experienced radiographer, to perform visual inspection for them. He gave them a copy of his forged credentials. From earlier acquaintance, they had also known him to be a CWI, so they never checked his credentials with AWS.

The person was used in a high-profile contract for a major public utility. The laboratory did the radiography and the CWI did the visual inspection. The utility’s QA department found some completely unwelded joints that he signed off on as visually okay. In addition, QA found several visibly rejectable welds that he had signed off. Despite being advised to be more careful, the person continued to perform poor inspections. His paperwork fell behind. As the job was coming to an end, QA discovered even more visual defects and unwelded root joints through radiography. Then they finally checked with AWS and found out the person was a phony. He was not a current CWI.

It was true that the person had been a CWI for several years, but his certification lapsed. He had taken the exam again, but only achieved CAVI level. The years went by and even his CAVI credentials expired. He primarily worked as a radiographer.

This unfortunate testing lab had signed a rather strict performance contract that required a current CWI to perform the visual inspection. The financial penalties for nonperformance and backcharges were severe. The testing lab had to pay for insulation removal and reinspection of all the welds, and it had to radiograph all the joints and pay for repair of all the joints that were welded without a complete joint penetration root pass. Not everything was covered by insurance. So, to save his good reputation with the utility, the testing lab owner made good at great personal expense. This nearly bankrupted the testing lab and the owner personally.

The testing lab owner complained to the police and tried to file an ethics charge with AWS. The bottom line was, the local law enforcement agencies said it was a civil matter and declined to prosecute the phony inspector. AWS could do nothing against the phony CWI from an ethics standpoint because he wasn’t certified by AWS; he wasn’t even a member.

The moral of the story? All of the trouble and expense could have been avoided if the laboratory had simply checked the person’s credentials with AWS. It can be done online using CWI Quick Check, AWS’s free CWI Verification System, which can be accessed by clicking on a button on the home page of the AWS Web site www.aws.org. You type in a CWI number and the search will verify the number and provide a name and certification expiration date. You can also call the AWS Certification Department at (800/305) 443-9353, ext. 273.

How committed would you be to ethical behavior? How far would you take it?

11.2. Responsibility to the Public. The SCWI, CWI, and CAWI shall act to preserve the health and well being of the public by performing duties required of welding inspection in a conscientious and impartial manner to the full extent of the inspector(s) moral and civic responsibility and qualification.

A recently certified, and up until then, unemployed CWI was hired by a small third-party inspection and testing company to perform Structural Steel Special Inspection on a number of new school buildings. His company sent him out to inspect partially and fully framed buildings. His employer did not give him copies of the codes and standards he would need, so he purchased his own. He was untrained as a Special Inspector but had a lot of experience in structural fabrication. He dutifully familiarized himself with the BOCA Building Code, High-Strength Bolting rules, the AISC Code of Standard Practice, Steel Deck Institute rules, and AISI specifications. He got some verbal instruction on how to perform the preinstallation verification testing for fully pretensioned high-strength bolts. He talked to experienced Special Inspectors to get some helpful hints on how to perform Special Inspections at various stages of the process.

On the job sites, he found shoddy workmanship was the rule and not the exception for this structural steel and erection. He found many defects, ranging from missing bolts to missing welds. There were also shoddy welds, cracks, incorrect members, and missing members. There were also disinterested contractors and construction managers.

The first thing that appeared quite evident was that there had been no shop inspection; the second thing was that making the schedule was the most important thing. Nothing else — not safety, not quality, not building law, and certainly not anything to do with ethics — was allowed to interfere with making the schedule.

After only a few minutes on a school construction site, he had hours of write-ups, and he still had two more sites to inspect that same day. He started falling behind in producing his reports. He didn’t need experience; he needed a secretarial pool and a stenographer to copy down and transcribe everything he could see in only a few minutes on each site.

The CWI appealed to his employer, who gave him less hours, but also gave him additional projects to cover. The result was more cursory inspections and less follow-up inspection. When he could make follow-up visits, he discovered that defective work he had reported was being covered up and had not been repaired. He discussed this with his employer, who told him not to worry because he was not the “Special Inspector of Record.” Since they are Registered Professional Engineers, they are the actual Special Inspectors. “You are just an assistant.”

“Okay,” he reasoned, “so I am in the clear legally. Or am I? These are schools. What if something happens? I don’t need this on my conscience. What about all the children who might be hurt? This is crazy! How can all those crooks get away with this? I can’t continue to be part of this.”

Accordingly, the SCWI, CWI, and CAWI shall:

11.2.6. Neither associate with nor knowingly participate in a fraudulent or dishonest venture or activity.

So, the inspector tried to contact various local officials. No one seemed interested. Finally, he went to a high state official and discussed his experience with that testing company. The official said he would “look into things.” The state official later reported that the cracks were repaired. The inspector resigned his position. He was unemployed again.

Conclusion

This CWI traveled a hard road in trying to follow the Code of Ethics. It is hoped none of us is presented with a situation as difficult as this. Adhering to the Code of Ethics, however, only better our profession and we should always keep it in mind as we go about our daily business.

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