DILEMMA
As an independent consultant with extensive experience in the environmental field, you are engaged by the environmental agency in the country of Miland to advise on the technical aspects of a technique that is used in the United States and considered to be maximum achievable control technology (MACT). Miland has recently discovered a disturbing cancer rate in its larger industrial cities and, as a result, the country’s Environmental Control Agency (ECA) is investigating the use of emissions controls practiced in Europe and the United States.

Although the MACT technique has been in practice for more than 25 years in the United States, it remains a standard in the industry. However, since the performance requirements (i.e., allowable emissions) differ in severity in different areas of the country, depending on the attainment status of the individual areas—and therefore the emission control process can be expensive—the industries that use it are continually searching for alternative techniques that can lower operating costs, as well as further reduce emissions.

Miland’s ECA has decided to pattern its control regulation after the New Jersey regulation, which is among the most severe in the United States. Because of your expertise in this area—you have been a consultant in the development and use of this process and authored several publications in the literature—you are approached by ECA to advise its staff and Miland’s regulated community on the details of this practice.

At the same time, you are aware of the emergence of a new technique for the control of emissions that may replace the current MACT standard. Several U.S. industries are in the process of evaluating the new technique, but cannot use it commercially until it has been approved by the state and local agencies. You inform ECA of the new technique, but ECA is reluctant to implement the new practice until it has been approved by the U.S. agencies.

You are convinced that the new process is viable and feel that it will soon be approved for use in the United States. You contact the various technology developers and suppliers to obtain performance data to support your intuition that you pass on to ECA. You also provide this information to Miland’s regulated community. In the course of meeting with the American technology developers and suppliers, one of them, Controls-Are-Us (CAU), appears to you to be the most promising. Through many exchanges with this firm, you become familiar with its staff. One day, CAU’s marketing director visits you and mentions that his company is frustrated with the regulatory delays in the United States. He says that his company would like to promote its technology with ECA, since Miland is implementing a new program. Because of your professional connection to the Miland agency, he offers you a bonus incentive for any of CAU’s equipment that is sold in the next year.

How do you respond?

DISCUSSION
First, it is important to note that CAU is only one of several technology developers that have equipment with the potential to be used for the new control process in Miland. You consider CAU’s equipment to be the most promising and have said as much to your contacts in Miland. However, you have also advised them that they should carefully evaluate each of the suppliers’ equipment. Second, you have been hired to consult on the implementation of the existing practice in the United States. The issue at hand is whether you can exercise good faith in your consulting relationship with Miland if you accept CAU’s offer. Furthermore, do you hold CAU’s offer against the company (i.e., is this offer a bribe)?

You owe your clients in Miland an objective evaluation of their options. They will ultimately make the final decision evaluating the security of using proven technology against the risk associated with the significantly more cost-effective, but unproven new technology. Your responsibility is to provide an objective appraisal of both approaches without demonstrating any preference. Even if your analysis indicates to you that the new technology is superior, you must be cautious that you do not “push” this technology.

As to the bribe aspect, yes, technically it can be considered a bribe. Whether or not you feel that you can be objective after you reject it, the offer introduces a dichotomy in your dealings with CAU. Your preliminary assessment...
was that this technology would be the most advantageous and you held good feelings toward the company. Now, CAU has created an ethical dilemma for you. If you accept the offer, then it is tantamount to accepting a bribe. If you decline the offer and punish CAU by not supporting its technology, and if indeed it is the best one, then you have done a disservice to your clients in Miland.

You are aware that American suppliers have been successful in securing contracts with foreign companies by using bribes. This practice is illegal, but seldom discovered or prosecuted. In this case, it is unclear whether the CAU marketing manager is aware that his offer to you is a bribe. Similarly, the CAU top management may not be aware of the offer. So how should you handle the situation?

RECOMMENDED ACTION
You must decline the offer, but I suggest that you defer your response to the CAU marketing manager by finding an excuse to interrupt the conversation. Take time to discuss the issue in confidence with a colleague, if necessary. The important thing is to recognize this offer as a possible ethical issue. On your next meeting with the CAU marketing manager, you should proceed as follows:

“Regarding the offer you made the last time we met, I cannot accept it. I realize that you made it in good faith, but I cannot proceed with an objective evaluation for my clients in Miland if I accept your offer. Even if my clients make the ultimate purchase decision and they decide on the CAU technology, I could not accept a bonus from you. I hope you understand and we can drop the issue immediately. I want to believe we both learned something from this situation and can move forward with this as a nonissue.”

READER FEEDBACK
I look forward to hearing your comments on this and other ethics issues. Reader comments can be sent to: Editor, EM Magazine, Air & Waste Management Association, One Gateway Center, 3rd Floor, 420 Fort Duquesne Blvd., Pittsburgh, PA 15222-1435; fax: 1-412-232-3450; or e-mail: em@awma.org.

Hal Taback, P.E., DEE, QEP, is chair of the Ethics Committee, an A&WMA Fellow, and an Honorary Member in the Association. Hal is president of Hal Taback Co. Environmental Consultants. E-mail: htaback@haltaback.com. The author acknowledges the assistance of Bob Hall in preparing this month’s column.

THE 17TH ANNUAL CONFERENCE OF THE INTERNATIONAL SOCIETY FOR EXPOSURE ANALYSIS

October 14-18 • Durham, NC

The ISEA Annual Conference gathers environmental and public health professionals to present and exchange information on recent advances in exposure science. The 17th Annual Conference, “Partnerships: Exploring Integrative Approaches in Exposure Assessment,” emphasizes new technologies, new science arenas, and new organizational partnerships in order to understand and reduce health risks from exposure to environmental contaminants.

For information or to register, visit www.awma.org.