

Success With SPANISH-SPEAKING Employees

How to stay on the same page when you speak different languages

More and more of the communication on residential job sites these days is taking place in Spanish. On balance, that's good news: It means that the industry's chronic labor shortage is finally giving way to a large and growing pool of new workers.

But for many builders, it's a trend that also raises some practical questions and concerns. When you don't speak Spanish yourself, for example, how do you give instructions to non-English-speaking employees or subs? How do you provide OSHA-mandated safety training to workers who may speak little or no English? What's the employer's responsibility for verifying a non-citizen worker's eligibility to work in the U.S.?

We put those questions and others to three builders whose businesses largely employ Spanish-speaking workers. Dennis McCoy is the owner of Ram Exteriors, a Lindon, Utah-based company that specializes in structural repairs and stucco work. Bill Brown is a specialty concrete contractor and owner of Bill Brown Construction in San Jose, Calif. Norm Yeager is a general superintendent for Able Constructors, a Greenville, S.C., company that does both commercial and multifamily residential projects.

—Jon Vara, Associate Editor

JLC: How important are Hispanic employees to your business?

McCoy: I couldn't do it without them. In my experience, Spanish-speaking workers have a tremendous work ethic. Very few of the Anglo guys in my area seem to see construction as a career. There's lots of turnover.

But the Hispanic guys are in it for the long haul. They're willing to start work at seven or eight bucks an hour because they see that as a first step toward running a crew and earning 60,000 a year, which is what my supervisors make. They see that as a very worthwhile goal. I have guys who have been with me for seven years without missing a day or being late once in that time. About two-thirds of my 60 employees are Hispanic.

Brown: When I started my business, my first hires were other Anglo guys I knew from high school. None of them lasted very long. I hired my first Hispanic employee, Javier Garcia, about 16 years ago. He's still here, and he's second in command of the company. Six of his brothers have also worked for me and four of his cousins.

I didn't set out to run a Hispanic company, but that's what happened. Probably 95% of our employees, including most of our office staff and project managers, are native Spanish speakers. The only Anglos are myself and a couple of project managers. It seemed strange to me at first, but now I'm used to it. The benefit is that once you get a reputation for treating people fairly and paying everyone equally, it's easy to attract qualified people.

Yeager: We're basically a construction management company — we have about 25 employees, but

almost all of the field work is done by subs. The subs themselves are typically Anglos, but I'd guess that close to 50% of the workers are Hispanic. In our area, it varies from trade to trade. There seems to be a higher percentage of Spanish-speaking workers in the building trades, like drywalling, framing, and roofing, than there are in the mechanical trades.

JLC: *When you hire a Spanish-speaking worker, do you need to be concerned about the possibility that he or she might be an illegal immigrant?*

McCoy: One of the things I love about this country is that the rules are the same for everyone. You've got to follow the rules, but they don't let you discriminate based on what language the person speaks or what they look like. Basically, when you hire someone, you have to see proof of their identity and proof that they're eligible to work in the U.S. For most Hispanic workers, that means a "green card." You also have to fill out an I-9 form for each employee and keep it on file, and I make photocopies of their documents and keep them with the I-9 (see "Employment Eligibility and Documentation," page 120).

You're not expected to be a private detective, but you do have to use common sense. I recently had to turn a guy away because he offered me a green card with a picture of his face obviously glued over the photo printed on the card.

Yeager: The subs tell me there's a sort of "don't ask, don't tell" policy in effect. I think most of them do check documents and fill out the right forms. But if someone is a good worker and his papers check out, the prevailing attitude is that you do as little as possible without getting your tail caught in a wringer. Getting the job done is the first priority.

Brown: I like to run my business on the up and up, so I'm very careful about how I hire people. I always check documents and file the paperwork. But forged papers are so common that you can never be sure whether a worker is legal or not.

JLC: *Once you do the required document inspections and complete and file the I-9 forms, do the immigration authorities ever ask to see them?*

McCoy: No one has checked so far.

Brown: Usually we check documents and file the form and that's the end of it. But every few years we get a

letter from the Social Security Administration telling us that an employee's social security number doesn't work. In some cases, it's just a mixup over the mother's maiden name, because families in Mexico sometimes switch back and forth between the mother's last name and the father's last name from one generation to the next. But we've had to fire people in cases where we couldn't sort things out.

JLC: *Do most of your new hires already have the skills you need, or do you hire unskilled people and train them?*

McCoy: Almost all of our long-term employees started out as low-skilled laborers. You can tell pretty quickly who has what it takes to learn the trade, and then you train them. The low turnover rate makes it worth taking the time to do that. Maybe it's a matter of motivation, but in my experience, the Hispanic guys seem to be natural craftsmen — they take to doing things right away.

Brown: We do a lot of concrete work, which means that we need a few highly skilled guys for things like setting steel and doing layout, while the rest is mostly a bunch of heavy labor. In the San Francisco Bay area, where we're located, all the concrete workers come from one area south of Guadalajara. If you know one of them, he'll know lots of others. It's almost like a union hall. The same thing is true of family connections, which are very important among Hispanics.

JLC: *Do you speak Spanish yourself?*

Brown: I'm a student of Spanish. I took a Berlitz course, and I can usually make myself understood. I can follow the guys on the site unless they start talking really fast, and then I have to ask them to slow down. But almost everyone on our office staff speaks Spanish fluently. So if I'm interviewing a job applicant, I may start out in English and Spanish, but if I get confused, I'll have Margaret Garcia, our dispatcher, come into the room and translate for me.

McCoy: I'm fluent, which has been a huge help. But I know other contractors who get by fine as long as their crew leader speaks English well enough to interact with subs and communicate with the rest of the crew.

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Employment Eligibility and Documentation

In the eyes of the law, hiring a Spanish-speaking employee is no different from hiring anyone else. “You can’t tell whether someone is a citizen or not by looking at them or listening to the way they speak,” says Immigration and Customs Enforcement (ICE) spokesperson Ernestine Fobbs. As an employer, you’re responsible for obtaining the same documentation from every new hire, whether they’re a close family member or a complete stranger with limited English.

Three things are required: You need to see documentation of the potential employee’s identity; you need to see proof that he or she is eligible to work in the U.S.; and you need to fill out a one-page I-9 form, Employment Eligibility Verification, and keep it on file for a specified length of time. If the immigration authorities want to inspect your I-9 records, you’re required to produce them within three days.

The ABCs. U.S. Citizenship and Immigration Services (USCIS) divides employee-provided documents into three groupings, identified as Lists A, B, and C.

So-called List A documents, such as a U.S. passport or a permanent resident card — commonly known as a green card — establish both identity and work eligibility. If the applicant doesn’t have a document from List A, he or she can produce two other documents to accomplish the same thing: a driver’s license or equivalent document from List B to establish identity, and a List C document — such as a social security card or U.S. birth certificate — to prove employment eligibility. Although it’s not required, it’s good practice to make photocopies of the document or documents provided and file them with the

employee’s I-9 form.

You can find a short version of the rules for completing Form I-9 on the USCIS website at <http://uscis.gov/graphics/howdoi/faqeev.htm>. For more complete instructions, including lists of acceptable forms of documentation, go to the documents section of the site at <http://uscis.gov/graphics/lawsregs/handbook/hnmanual.htm> and print out document M-274, *Handbook for Employers*.

Good faith. What if an employee provides counterfeit documents, or documents that are genuine but actually belong to someone else? The law provides what’s described as a “good faith defense,” which recognizes that employers are businesspeople, not document experts.

“Green cards,” for example, come in a number of different versions, depending on their date of issue and other variables. As long as you act “reasonably” in examining employee documents and completing and filing the required I-9 forms, you can’t be held liable for any irregularities that may come to light later. (The only exception to the good faith defense is when the government can show that an employer had actual knowledge of a worker’s unauthorized status.)

Going too far. You can get in trouble for not getting enough documentation from your employees, but you can also get in trouble for demanding too much. If the documents an applicant provides meet the legal minimum and appear genuine, you’re required to accept them at face value.

For example, if a job applicant offers an apparently valid permanent resident card, you can’t also ask to see a voter registration card and birth certificate. As

a List A document, the permanent resident card alone is enough to establish both identity and eligibility for employment, and demanding more or different documentation could be an unfair immigration-related employment practice (see *Legal Adviser*, 12/02).

Rolling the dice with day labor. Finally, it’s worth noting that employers who make a practice of hiring “day labor” — undocumented, short-term workers who are paid in cash by the hour — may be putting their businesses at risk. According to construction attorney Gary Ransone, there’s more at stake than the possibility of being nabbed by the ICE for failure to complete and file the required I-9 forms.

“A lot of people seem to think that day laborers aren’t statutory employees,” Ransone says. “They put them in a separate category they’ve created in their own minds. But once you put someone to work, they become your employee whether they’re officially on the payroll or not.”

And as a matter of law, Ransone explains, day laborers are entitled to the same rights and protections as other employees, including insurance protection. If a day laborer is seriously injured on the job (an all too common occurrence, given the limited skills and lack of experience on the part of many such workers), and you can’t show that the worker is covered by your workers’ comp policy, you could be in big trouble.

“If that happens, you’re likely to get flipped over into the uninsured risk pool,” Ransone says. “The government can come after you and put liens on your possessions to recover costs.”

— J. V.

Yeager: I only speak a few words of Spanish. In fact, only one of our supers speaks Spanish at all, and he speaks a sort of pidgin Spanish.

JLC: Do you offer any incentives to your employees to learn another language, whether that's Spanish or English?

McCoy: I tried sending a couple of my Anglo supers to a Spanish language class, but it didn't work — I think they only went once. But the Spanish-speaking guys, especially the younger ones, are very motivated to learn English. A lot of them like to listen to language cassettes that they buy on their own. I tell

them just go ahead and speak, don't worry about how it sounds. The best way to learn a language is by using it a lot.

Brown: If you came into our office and listened to what was going on, you'd probably hear as much Spanish as English being spoken. We've also offered English lessons to our employees. We hired a teacher to come in two days a week and hold English classes in our conference room after work. There were two levels — beginning and intermediate. It was pretty popular, and it did improve people's English. We'll probably do it again sometime.

Yeager: We've never tried that. The way we deal with the language barrier is to make sure that our subs send a lead guy who speaks both Spanish and English, so he can pass along instructions to the workers who speak only Spanish.

JLC: Are there times when language differences lead to preventable mistakes?

Brown: We have a saying we use all the time: "Si usted no entiende, no diga que entiendo," which means, "If you don't understand, don't say that you do."

What sometimes happens is that the Hispanic foreman speaks some English but isn't completely clear about the directions he's getting in English. You're there talking and he wants to get back to his work, so he says, "Okay, sure," even though he's not really sure what you mean. If you don't catch the problem in time, you might have to tear out a bunch of work and do it over.

McCoy: I'm careful to take as much time as necessary to be sure everyone understands what needs to be done. A related problem is that some Hispanic guys are so eager to keep the job moving ahead that they'll try to do work they're really not qualified to do. They'll try to move a wire themselves, or risk driving a nail through it, rather than calling the electrician. I encourage my employees to call me when they have a question about anything, no matter what it is. I try to reward them when they do, and I let them know how much I appreciate it.

Yeager: I actually can't think of a time we had to do anything over because of a language problem. Even when the sub doesn't provide someone who can translate — they're supposed to do that, but it doesn't

Handbook for Employers
Instructions for Completing Form I-9
(Employment Eligibility Verification Form)



U.S. Department of Justice
Immigration and Naturalization Service
Employment Eligibility Verification

Please read the instructions carefully before completing this form. This verification form must be available during completion of this form. ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against race or ethnic individuals. Employing (or hiring) specific ethnic documents they will accept from an employee. The refusal to hire an individual because of a failure to provide documents may also constitute illegal discrimination.

Section 1. Employee Information and Verification. This section must be signed by either the employee or employer.

Name: Last First Middle Initial Title Date of Birth Date of Hire

Address (Street, Rural Route, P.O. Box, Apt., etc.) City, State, Zip

Signature of Employer or Authorized Representative Title Date

Signature of Employee Title Date

Section 2. Employer Review and Attestation. This section must be signed by the employer. It is provided to the employer for use only. Do not check the "I am not an employer" box. If you are an employer, you must check the "I am an employer" box. If you are not an employer, you must check the "I am not an employer" box.

Section 3. Copying and Retention. To be retained and retained copies.

A. How many copies: 1. One copy of this form (I-9) 2. One copy of each document (if applicable)

B. How long to retain: 3. One copy of this form (I-9) 4. One copy of each document (if applicable)

Signature of Employer or Authorized Representative Title Date

Signature of Employee Title Date

always happen — it's not hard to show people what you want done. We're talking about commercial construction, not complicated chemical formulas. I've always found that the Hispanic guys are very willing to listen and learn.

JLC: *Are there any cultural differences between Hispanic and Anglo employees?*

McCoy: My experience is that even though the Hispanic guys are tough and hard working, they're very sensitive in some ways. If an Anglo guy screws something up, you can chew him out and it will all be forgotten about the next day. But if you hurt a Hispanic guy's pride, there's a good chance he'll quit the job. If you mess up a guy's pay one week, even if it's an honest mistake, he'll remember that for a long time.

I've also found that the foreman of a Hispanic crew has to have the right kind of personality. The Hispanics who work for me look to the toughest, hardest-working guy as their leader, and if you give the position to someone else, you'll have problems. Anglos seem to have more respect for credentials — you can have a pencil-necked geek as foreman and things will work out somehow. Respect for the person is more important among Hispanics. Maybe this has to do with culture, or maybe it's just that the language difference makes people want to stick together and feel that someone they trust is looking out for them.

Brown: Courtesy and respect are very important to Hispanic workers. You never want to yell at someone, for example. A Hispanic guy will see that as a serious challenge — it would be as if you went over and pushed him. If I'm upset with someone, I may let him know by giving him the silent treatment instead.

Yeager: I think a lot of Americans don't understand how few opportunities for advancement there are in Mexico. On one of the jobs we worked on, there was a guy on the drywall crew who was actually a medical doctor in Mexico. My wife and my daughter are both nurses, so I talked to him a little bit, and he seemed like the real thing. He was a guy in his forties with kids who he wanted to send to college, and he could make more money hanging drywall in North Carolina than he could as a doctor at home.

JLC: *What about things like holidays and vacations? Do you give your employees any of the Hispanic holidays off, like *Día de los Niños* [Children's Day, April 30] or *Diez y Seis* [Mexico's Independence Day, September 16]?*

McCoy: We don't. For my workers, a bigger issue is that they want to work on American holidays. Thanksgiving means nothing to them, for example. They complain about having to take the day off. We do a lot of stucco rehab work on existing houses, and I have to explain that we can't work on a day that people are spending with their families. We usually end up working a Saturday to make up for Thanksgiving.

One thing I do have to deal with, though, is that a lot of the guys really like to go and spend a few weeks with their families in Mexico over Christmas. I'm okay with that. Our work is seasonal anyway, so it's not a big problem. It's something you have to be open to, or you'll end up losing good people.

Yeager: I've never heard any of our subs mention any Hispanic holidays. I'm sure they exist, but no one we work with takes them off.

Brown: We don't offer paid holidays to our field employees, but we have a pretty liberal policy about time off. As long as you find someone to cover your job, you can take a day whenever you need to. I can't even remember the last time someone just didn't show up for work.

JLC: *Do you ever encounter any prejudice against Hispanic employees on the part of customers or subs, and if so, how do you deal with it?*

McCoy: In my experience, that depends on where you are. When my business was in Southern California, you did find some prejudice. In Houston, where one of our crews is located, it's absolutely not a problem. Here in Utah, there's a little hesitancy on the part of some homeowners. We do a lot of repair work, so we often work on occupied houses. I always take the time to introduce the project foreman to the homeowners, which really seems to boost their confidence level.

Brown: There are quite a few bigots out there. Some Anglo subs have a habit of referring to Hispanic workers as "kids" or "boys." There's not much you can do about other people's attitudes, but sometimes you have to take a stand against it. My

employees are more important to me than my relationship with a sub who happens to be a bigot.

Yeager: I think they may feel threatened that Hispanics are starting to move into the more lucrative positions in the industry. But I think that will change as Hispanic-owned companies become more numerous. The industry is definitely headed in that direction.

JLC: How do you handle required safety training when some of your employees speak English and some speak Spanish?

McCoy: We're fortunate to have a safety monitor who's completely bilingual. Along with one of our estimators, he worked on construction projects in Central America as a Mormon missionary. When we have a training session, we start by telling everyone what we're going to be doing in both Spanish and English. That slows things down a little, but it's not a big problem. Then we break into an English-speaking group and a Spanish-speaking group for the actual training. It's easy to get videos and other training material in both Spanish and English now.

Brown: We farm out a lot of our safety training by bringing in trainers from outside companies. There are quite a few companies in our area that provide training in both English and Spanish. We also pay to send employees to seminars so they can be certified as a Qualified Person under the OSHA regulations that cover things like fall protection.

Another thing we did was to make a Spanish-language video about our company safety practices. The husband of one of our architects works for a local Spanish TV station, and he also runs a small video production company; he made us a nice video for around \$2,500. It's been very useful for showing new employees what's expected of them.

JLC: Safety standards in the U.S. and Mexico can be quite different. Do you have to make an extra effort to get Hispanic workers to be safe?

McCoy: Definitely. I've spent a lot of time in Mexico, and I've seen some very dangerous construction sites. Workers there get used to living with risks that we see as unacceptable on this side of the border. It takes a lot of work to overcome that.

I've found that the best way to do that is to stress the fact that safety is important to me — not only because I don't want anyone to get hurt, but also because it can cost me a lot of money. I'm the one who has to pay the fine if someone isn't using fall protection. If you don't make that clear, you can have people cutting corners on safety because they think they'll make the boss happy by getting the job done sooner.

Brown: Safety is a matter of culture — I mean company culture, not whether you're Anglo or Hispanic. If you make it clear that safety is a priority, people will take it seriously. 

