NBAA

ENTERPRISE RISK MANAGEMENT

This NBAA article series examines enterprise risk management (ERM) in the business aviation environment. ERM can be a beneficial "next step" for business aircraft operators that have achieved Stage 3 of the International Standard for Business Aircraft Operations (IS-BAO).

ENTERPRISE RISK MANAGEMENT

Going Beyond IS-BAO Stage Three

Operators are developing strategies to identify events that could negatively affect them and managing those risks strategically.

More than a decade ago, the International Business Aviation Council (IBAC) developed the International Standard for Business Aircraft Operations (IS-BAO), an industry code that promotes the use of best practices for international business aircraft operations. The program focuses on the importance of a safety management system (SMS) as outlined by the International Civil Aviation Organization (ICAO). More than 700 business aircraft operators representing 35 different countries have successfully completed the IS-BAO audit.

IS-BAO requires a business aircraft operator to progress through a series of stages that increase in difficulty and commitment, ultimately resulting in a more mature organization.

Stage One essentially confirms that the aircraft operator has established an SMS infrastructure.

Stage Two ensures that safety management activities are appropriately targeted for the organization and that risk is being effectively managed.

Stage Three verifies full integration of the SMS into the operator's business and confirms that a positive safety culture has been firmly established within the organization.

The standard audit cycle for Stage One and Stage Two operators is two years; Stage Three operators may extend the audit cycle to three years under certain conditions. Early adopters of the program have achieved Stage Three and continued receiving audits to verification of continuous implementation and improvement for a number of years, which has led some NBAA Member Companies to ask: what comes after IS-BAO Stage Three?

Enterprise risk management (ERM) is a business discipline receiving increased attention both inside and outside of the corporate boardroom. The definition of ERM varies from one source to another, but in general, it is a process, applied in developing strategies across the enterprise, which strives to identify potential events that could negatively affect the entity and manage that risk to a reasonable degree.

Risk management and emergency response planning are essential elements of any basic SMS, and operators seeking IS-BAO registration must have an emergency response plan (ERP) and basic risk-management processes in place just to reach Stage One.

NBAA believes operators should look beyond safety risk management and rudimentary emergency response planning to ERM. For our purposes, ERM is a strategic method of managing aviation risks across the entire organization, not just an independent ERP "silo" within the flight department.

An ERP is a valuable tool to any flight department, but an organization must realize the potential impact of an aviation accident or incident on the entire company. An ERP that only focuses on the flight department and aviation activities of the organization can actually be a liability, increasing overall risk to the company in the long term.

"Enterprise risk management is a more holistic approach to emergency response planning," said Mike Nichols, NBAA's vice president, operational excellence and professional development. "A typical emergency response plan looks at the first few days or weeks following a major aviation-related incident. Enterprise risk management encourages operators to look long-term, past those first few days, and to look outside their flight department to better manage events following a crisis.

"Developing an enterprise risk management plan can help a company deal with a crisis in the most proactive, responsible manner."

An ERM plan is different from a typical aviation ERP. A well-developed ERM plan includes an ERP as one critical aspect, and the ERM and ERP must be integrated and complementary. A typical aviation ERP discusses how to report an incident or accident, notify next of kin, and maybe even how to participate in an on-site accident investigation team, depending on the size of the organization. Many of these ERPs are designed and implemented independently from the parent company's main crisis response planning.

"Companies are likely to have disaster or crisis response plans and exercises for issues like major product recalls, but how often do they include the flight department in these plans?" said Paul Lange of the Law Offices of Paul A. Lange, LLC. "Flight departments also have a brand to consider. Enterprise risk management looks at the potential impact of an aviation-related incident to the company's overall brand image, among other crucial considerations."

Lange specializes in aviation law and often assists clients in managing post-accident events. He recommends that companies consider internal communication processes and coordination with third parties as just a few issues for inclusion in an ERM plan.

Accordingly, NBAA is committed to providing Member Companies with resources for developing an enterprise risk management plan that can guide an operator in managing a crisis scenario. These resources will include special sessions at NBAA's 2014 Tax, Regulatory & Risk Management Conference and 2014 Business Aviation Convention & Exhibition, both being held this October in Orlando, FL, and at other NBAA conferences in the coming year.

A Communications Plan Is Essential
Well-defined internal communications policies and procedures are needed to deal effectively with an aviation accident.

"ERM essentially puts the 'business' in business aviation," declared Greg Panzarella, a pilot with a Fortune 500 flight department. "It forces us to be strategic in our response to emergency situations, especially with our communications. We need to engage the right people to get the right information and make the best possible decisions in a bad situation."

As was noted in the first article in this series, ERM is, in general, a process applied in developing strategies across the enterprise in order to identify potential events that could affect the entity and manage risk to a reasonable degree. For our purposes, ERM is a strategic method of managing aviation risks across the entire organization, not just an independent change-management plan or emergency response plan (ERP) "silo" within the flight department.

ERM focuses on the continuation and prosperity of an organization long after change occurs or after the first few post-accident weeks addressed by a typical ERP. Defined and effective internal communications policies and procedures that include the entire company – not just the flight department – are significant aspects of a successful ERM.

"Enterprise risk management relies on predetermined and proactive communication between a flight department and 'downtown,'" explained Mike Nichols, NBAA's vice president, operational excellence and professional development. "Companies need to plan how information will move within and outside of the company prior to significant organizational change or an aviation accident.

"Developing an enterprise risk management plan that focuses on clear, dedicated lines of communication can help a company respond to any number of changes within an organization, or external factors that impact the organization, in a responsible manner," continued Nichols. "This helps preserve the organization's reputation and viability. These scenarios can range from substantial company structural changes, such as new company leadership or a significantly different aircraft type, to a serious or even fatal aviation accident."

WHO SHOULD BE IN THE COMMUNICATIONS CHAIN?
First, a company should consider which individuals will be a part of the ERM. Traditional aviation change-management and emergency response plans only include flight department personnel or maybe the company attorney. Paul Lange of the Law Offices of Paul A. Lange, LLC recommends looking for additional resources within the organization.

"The ERM must be coordinated with company headquarters, not just flight department personnel," said Lange.

"Many organizations have a risk manager who is trained to look at individuals' descriptions of an event, and other variables following an incident or accident, and provide guidance to avoid conflicting formal statements and help limit financial, legal and regulatory liability."

Lange cautions that although some companies do involve personnel from headquarters, often those individuals outside of the flight department who might be called on in the event of major organizational changes or an aviation accident are unaware of their intended role, and often the contact information for those individuals is out of date or inaccurate.

Lange also reminds his clients that all individuals involved in the ERM should be included in tabletop exercises and other drills in order to identify gaps in the communications chain between the flight department and headquarters.

Panzarella echoes Lange's recommendation to look beyond flight department staff when developing an ERM, saying, "Flight department personnel get exposure to a lot of different disciplines, but we have to continuously engage other subject matter experts to make sure we have developed the best possible plan to respond to an emergency."

NOTIFYING NEXT OF KIN

Another issue to consider in your ERM is notification of next of kin in the event of an aviation incident or accident. Although most traditional aviation ERPs address next of kin notification on some basic level, business aviation faces a unique situation in that the passengers are often high-profile individuals, and their next of kin might also be high-profile individuals or may be involved in the affected business.

"Consider a scenario in which the CEO of a company is involved in a fatal accident," said Lange. "Who should contact the spouse? If the spouse is also involved in the

business, how do you control the situation so the spouse is able to deal with the personal tragedy and not be concerned with the business aspect?"

Lange recommends having a plan to deal with this sort of scenario long before it happens. Consider having someone who knows the spouse provide the notification. Have a process in place that ensures business issues are handled without distracting the spouse and provides the spouse with assistance in handling media inquiries. Further, Lange warns that a company's future can be in peril if the principal perishes without adequate proactive preparation.

"The ERM must be coordinated with company headquarters, not just flight department personnel."

—PAUL LANGE
Law Offices of Paul A. Lange, LLC

Traditional aviation ERPs assume the worst – a catastrophic accident resulting in fatalities or total loss of the aircraft. But an ERM should also consider minor incidents that could receive media attention and result in negative perceptions of your company and unnecessary worry by passengers' families.

RESPONSIBLE USE OF SOCIAL MEDIA

An ERM can help ensure that the organization provides consistent messaging outside of the company, including responses to media requests and social media information. Most companies have a basic policy regarding media inquiries following an aviation accident or incident, and some companies have social media usage policies, but many organizations do not develop the two policies concurrently.

Often the flight department writes the ERP, and headquarters has its own media policy, which the flight department may or may not be aware of. Compare your existing policies regarding media requests following an accident with your existing social media policy. Are these policies consistent? Is there anything in the social media policy that should be added or changed to address aviation accidents?

Some companies prohibit the use of social media following a major corporate change or an emergency, but that is not necessarily an effective policy for business aviation users.

"Flight departments often have more time-critical communications needs than their headquarters counterparts, so social media and communications policies can't be too restrictive or they will inhibit the flight department's ability to complete their mission," said Lange. "Following an aviation accident, all staff members should be reminded about confidentiality policies and cautioned to be mindful of posts to social media outlets. However, there's no bet-

ter time to address social media concerns than before an accident occurs."

Nichols cautions that irresponsible use of social media can be particularly harmful during major structural or leadership changes at a company. "Companies are often vulnerable during mergers or acquisitions, major leadership transitions and similar events. A single employee's seemingly innocent post on a social media site can cause immeasurable harm during these critical times."

All communications-related policies should apply across the entire organization. If there are to be deviations to certain policies during a significant company transition or as part of emergency response, those deviations should be outlined prior to an event so the appropriate parties know what the deviations are and how they work.

THE RACI MODEL

Several NBAA Member Companies encourage other operators to utilize a project management tool known as the "RACI" model when developing an ERM, especially when focusing on the communications aspect of ERM.

R **Responsible**
» Who owns this task?
» Who is assigned to work on this task?

A **Accountable**
» Whose ensures this task is done correctly?
» Who has the authority to make a decision?

C **Consulted**
» Who can tell me more about this task?
» Who are the stakeholders?

I **Informed**
» Whose work depends on this task?
» Who must be kept updated about progress?

ERM IMPLEMENTATION ROLES AND RESPONSIBILITIES USING THE RACI APPROACH

	Expert Witness	Case Manager	Consultant
Povides Testimony	R	A	A
Prepares Documents	I	A	R
Project Manages	I	R	C

"RACI – which means who is 'responsible, accountable, consulted and informed' about each aspect of event response – is a fantastic model to use to develop a methodical, strategic communications plan for your ERM," said Panzarella. "Which people fit in specific roles? A company might have to go through the RACI model a few times to get the right person, but it is a great way to determine if the right people are engaged and, if not, how to engage those individuals."

Mitigating Financial, Legal and Regulatory Risk

Obtaining legal counsel before responding to questions about an accident can help prevent inadvertent admissions during inquiries.

"During a tragic time like that following an accident, providing compassionate assistance to your employees, passengers and other affected parties is obviously the most important priority," said Mike Nichols, NBAA's vice president of operational excellence and professional development. "The next important step is caring for the company's future, which means handling the event in a manner that mitigates financial, legal and regulatory risks and protects the brand."

Attorney Paul Lange, of the Law Offices of Paul A. Lange, LLC, assists clients in the aftermath of incidents and accidents. He noted, "People create problems for themselves that didn't previously exist by reporting inconsistencies that basically invite the NTSB and FAA to start questioning company policies or procedures. For example, operational control is a common pitfall following an accident because the pilot and the company sometimes give the investigating parties two different answers, not because of any wrongdoing, but simply because they failed to talk to one another. In some cases, no illegal or improper activity occurred, but a failure to communicate properly resulted in misinformation being provided to the NTSB or FAA."

DON'T RUSH TO FILL OUT FORM 6120.1

Lange points to NTSB Form 6120.1, which must be submitted following an aviation accident, as a common stumbling point. Sometimes pilots feel pressured to submit the form too quickly following a traumatic accident. It is important to note the way different parties look at Form 6120.1. Although the NTSB's interests relate to the investigative process, the FAA often looks for actions that could be regulatory violations. Meanwhile, the insurance company will review the form for purposes of determining coverage.

Seemingly simple questions – such as "Who was on board the aircraft?" "What was the purpose of the flight?"

and "By whom were the pilots employed?" – can lead to inadvertent admissions by company employees, including pilots, who don't fully understand the question being asked. Operational control and illegal charter issues are the most likely to arise from these investigative questions.

"The form requires admissions, which have effects in three axes – investigative, enforcement and financial – under severe time pressure and with imperfect information," said Lange, who recommends pilots seek counsel prior to completing forms or making statements. Not only is Form 6120.1 more likely to be completed thoroughly and accurately if counsel works with the pilots and/or the operator on the draft prior to submission, but attorney-client privilege will better protect the drafts from disclosure in any future legal action than if the pilot or operator completed the form alone.

> *"While a pilot has a duty to cooperate with investigatingofficials from the FAA or NTSB, they don't have to provide statements without first getting the best possible legal advice."*
>
> —TIM MCSWAIN
> Aviation Consultant Specializing in Risk Management

Tim McSwain, an aviation consultant specializing in aviation insurance practices and risk management, agrees. "Pilots in particular tend to have a grave sense of responsibility and are inclined to take fault upon themselves. They often feel they should have been able to prevent an accident or incident," said McSwain. "While a pilot has a duty to cooperate with investigating officials from the FAA or NTSB, they don't have to provide statements without first getting the best possible legal advice."

REGULATOR INTERVIEWS CAN BE PROBLEMATIC

Although NTSB Form 6120.1 is typically the first formal statement a pilot will make following an event, interviews often create the biggest opportunity to cause trouble for the pilots and operator. Interviewees have the right to representation during the interview process. McSwain encourages pilots and operators to contact their insurance broker for recommendations for qualified counsel since internal corporate counsel rarely has enough expertise in dealing with the NTSB and FAA to provide adequate advice.

"It is in the best interest of all involved parties for pilots and operators to seek counsel," said McSwain. "Failing to have qualified counsel in the interview phase can mean risks for the pilots, company and even the investigation itself.
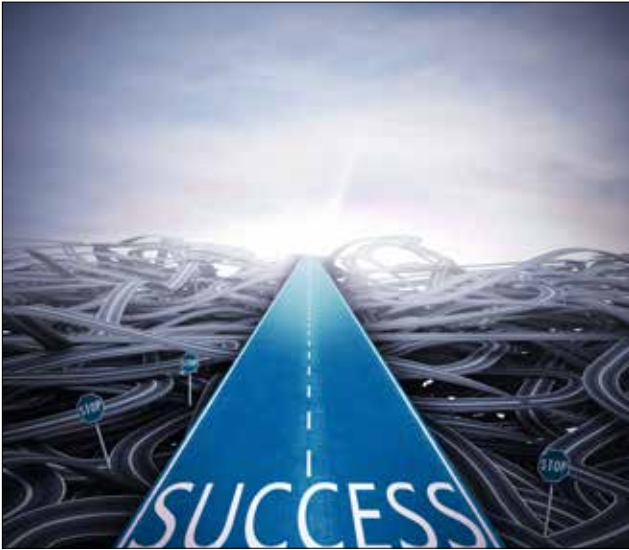
It's important to remember that the FAA may want to be present during the NTSB interview, and the FAA representative might be from the accident investigation division or the enforcement office, with clearly different agendas than the safety board officials. Interviews are typically recorded, and both Lange and McSwain recommend requesting the interview transcript upon completion of the interview. It is not uncommon for the interviewee to misunderstand the question or answer an entirely different question from that which was asked. Interviewees should ask to review the transcript to ensure that their answers read as they intended.

Insurance companies also typically require written or recorded statements within a specific timeframe, which varies from policy to policy. "There's a myth that if a pilot makes a mistake or violates a regulation and that action leads to an accident, there's no insurance coverage," said McSwain. "That's simply not true. Even a violation of a regulation rarely results in suspension of coverage, though coverage could be in question if the pilot's qualification under the insurance policy is unclear or in instances of blatantly illegal activity."

It is critical for pilots and other company employees to cooperate and be truthful following an aviation incident or accident, but an individual's comments might inadvertently have significant impact on the individual and the company's liability following the event. McSwain refers to this as the "downstream effect." "It's important for individuals involved in an aviation accident to understand the financial and legal consequences of what is conveyed immediately following an accident."

ERM CAN HELP ENSURE PROPER COMMUNICATION

An enterprise risk management plan, established in advance, helps ensure proper communication with third-

party representatives. These communications processes are often not addressed in a standard ERP.

"Many companies that created unnecessary financial, legal and regulatory risk for their organizations following an incident or accident simply failed to have a workable emergency response plan," said Lange. "Some don't practice their ERP, or even read it. Furthermore, most ERPs don't include guidance on how to talk to the NTSB and FAA. This is when enterprise risk management comes into play."

"A standard aviation ERP typically deals with very rote and near-term issues – how to make initial notification of the accident and what records to secure for investigators," said Nichols. "Although those steps are important, it is absolutely essential that a company proactively manage its long-term financial, legal and regulatory liability. A proactive ERM plan can help the organization minimize its longer-term risks in the months and years following an accident or incident."

Implementation Tips and Tools
How to put a comprehensive plan in place, incorporating the RACI model and other strategies.

ERM attempts to break down various silos within an organization. Often, the flight department is considered a separate entity from the rest of the company and is even based some distance away from company headquarters and the resources based there. Traditional SMS and ERP programs are typically flight department-specific. ERM is a comprehensive, proactive attempt to bring all aspects of an organization together to more effectively manage risk.

OBTAIN TOP LEADERSHIP SUPPORT
Because of its company-wide nature, enterprise risk management requires a full commitment from top leader-

ship. While an ERM plan will require resources and time to develop and maintain, it is a sound investment that will pay dividends when a company faces a crisis or other organizational challenge. Take time to explain to the top people in your organization the critical role that a fully developed ERM program can play following an event.

"If the company already has an enterprise risk management program and the flight department has not been included, this conversation will provide the opportunity for the flight department to become aligned with – and add value to – the company's broader ERM strategy," said Mike Nichols, NBAA's vice president of operational excellence and professional development. "For example, the company may have safety or security risk exposure where the flight department can provide tools and expertise to help mitigate related risks."

Obtaining buy-in from company leadership to pursue a project like ERM development can be challenging. However, ERM can be a very useful tool in mitigating legal and financial liability, among other concerns. Once top leadership understands how effective ERM can be, they are more likely to support and participate in the development and implementation effort.

APPOINT AN ERM CHAMPION
Ensure that one individual who understands the ERM goal and development process is accountable for the project. This person should have risk-management training, but, more importantly, should be passionate about the process. The ERM champion should set project milestones and have the authority to hold other individuals involved in the process accountable for related tasks and deadlines. Remember, the ERM champion cannot do this alone; it requires company-wide participation.

ESTABLISH AN ERM COMMITTEE
Gather the right people – both internal and external to the organization. Start with your organizational chart and be sure at least one individual from each department or business line is involved in the discussion. Consider using the RACI model (Responsible, Accountable, Consulted, Informed) to ensure the right people are involved in the process. A RACI matrix lists activities or tasks and assigns individuals who are responsible, accountable, consulted, or simply informed for each activity or task.

"Sometimes individuals critical to enterprise risk management are inadvertently left out of the loop," said Tim McSwain, an aviation consultant specializing in aviation insurance practices and risk management. "A great way to ensure you aren't leaving someone out is to determine how information comes into the organization and then how it is communicated from there."

McSwain says key players are often company security personnel, because that department is typically staffed around the clock. Other important individuals are those who answer the phone or manage the switchboard.

"These folks basically perform triage and determine the severity of an event. Is it a major or minor event? Is it a hoax?" said McSwain. "It requires appropriate training to make these judgments before passing information to more senior individuals to decide on an appropriate response."

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—MIKE NICHOLS
Vice President of Operational Excellence and Professional Development, NBAA

McSwain also recommends looking at available outside resources. For example, insurance brokers and legal experts are often brought in after the fact. These individuals can be an important aspect of proactively mitigating risk through ERM, rather than just providing damage control after an event.

Also be sure individuals assigned to the ERM committee are available long-term. ERM is not a one-time event with a definitive completion date. Although development is a finite process, implementing and managing the ERM is a long-term commitment.

DETERMINE BUSINESS-PROCESS CATEGORIES

Take a look at the overarching business-process categories in your company. For many organizations, business-process categories include company policy, financial performance, regulatory compliance and recordkeeping. Many business processes overlap these categories. Use these initial categories as a starting point for identifying your risks. NBAA's Operational Excellence Strategic Focus Team has embarked on a project to define common business processes in business aviation.

ERM requires you to identify, analyze, integrate, prioritize and deal with specific risks. Look at the business-process categories you have defined and start a discussion by asking your ERM committee "What if…?"

"Ask your ERM group, 'What would be the impact of a particular event on you and your department?'" said Nichols. "Once each individual has identified the impact of a particular event, then assign the event a date. For

example, 'What would be the impact of a non-fatal aircraft accident today on you and your department?' Considering an event happening today often underscores the urgency of developing a sound plan."

Often the discussion itself easily guides the group to determining if a particular risk is one worth mitigating.

DRILL, DRILL, DRILL

Just as you practice your emergency response plan, it's important to drill your ERM plan. List a number of hypothetical situations that could impact your business, as well as more likely scenarios (e.g., the decision to purchase a new aircraft). Be sure to include scenarios outside of the flight department, such as a prolonged illness or sudden death of a major leader of the organization, departure of a critical client or customer, significant damage to critical company infrastructure, and so on. Use these scenarios to ensure that your plan, including individual roles identified in the RACI matrix, is appropriate to effectively respond to a significant event.

Corporate governance best practices for companies of all sizes require effective risk-management and control frameworks. Enterprise risk management is a tool that helps businesses identify, analyze, measure and prioritize risks. Many companies employ some or all aspects of ERM within their organization, but fail to include the flight department in ERM discussions. This oversight could leave the company exposed to unnecessary risk and liability. Excluding the flight department from an ERM plan could also mean the company is missing out on valuable knowledge from flight department personnel and useful resources found within the department. Regardless of your company's current progress with ERM – just beginning ERM, a partially implemented plan, or a mature, functioning system – be sure the entire company is involved in the ERM process.

ERM Implementation Checklist

1. Obtain top leadership support.
2. Appoint an ERM champion.
3. Establish an ERM committee.
4. Determine business-process categories.
5. Conduct regular drills to practice the plan.

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