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B Corporations – Hype or Hope?

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Abstract

One of the first legal decisions a business owner has to make is often referred to as “choice of entity”. Owners must choose a legal framework for carrying out their business purpose. Traditionally the choice has been limited to sole-proprietorships, partnerships, corporations, limited liability companies, or some hybrid form recognized by local laws. Over the past five years an alternative movement has suggested that the entity structure should be more than a legal entity, it should be a structure that provides benefits to the public, community, owners, employees as well as the clients served. These entities are referred to as B Corps and are a new type of organization that uses the power of business to impact social and environmental problems.

Construction companies increasingly stress their advocacy of and commitment to sustainability. Is this truly a dedication to sustainability, merely a marketing ploy, or maybe fear of not “keeping up” with the competition? If one’s definition of sustainability is very narrow, it may mean no more than providing services for clients who request such services. However, if one embraces a more robust definition, sustainability may incorporate ideals promoted by the B corporation movement.

The purpose of this study is to investigate the intricacies of the B corporation movement and identify paths or pitfalls that might exist for companies engaged in areas of general contracting. Is this a lot of “hype” or are there truly benefits to be achieved by all involved with a company organized as a B corporation. This paper provides background information on B corporations and reports on the current status of the B corporate movement. In addition a number of companies involved as B corporations will be interviewed in order to ascertain whether participation as B corporations has a positive impact on their overall profitability.

Keywords: B Corporation; Corporation; Legal Entity; Sustainability

1. Introduction

Benefit Corporations aim to have a positive impact on society and the environment while still remaining economically successful. Certified B Corporations are for-profit companies certified through a third-party rating system as meeting “rigorous standards of social and environmental performance, accountability, and transparency” [1]. The rating system evaluates companies’ business practices to identify and grade socially and environmentally positive practices. Currently, there are almost 1,700 Certified B Corporations in the world [1], an increase of approximately 70% since this study was started two years ago. The certification process is operated by the non-profit B Lab and consists of a performance review, a legal review, and the signing of the B Corp Declaration of Interdependence and Term Sheet. The B Corporation movement aims to provide greater economic opportunity, an improvement on environmental issues, and employee satisfaction to the involved companies and their surrounding communities [1].

1.1. Certification Process

Files B Lab is the 501(c)3 non-profit that runs the B Corp certification process. B Lab creates the certification standards for Certified B Corporations and administers the certification process as an unbiased third party. B Lab also hosts B Analytics, the benchmarking platform for B Corporations, and promotes pro-B Corp legislation. The various components of B Lab are illustrated in Figure 1. Jay C. Gilbert, Bart Houlahan, and Andrew Kassoy founded B Lab in 2006. B Corporation Certification started in June 2007, quickly gaining traction that December when King Arthur Flour publicized their certification by printing the B Corp logo on 10 million bags of flour.

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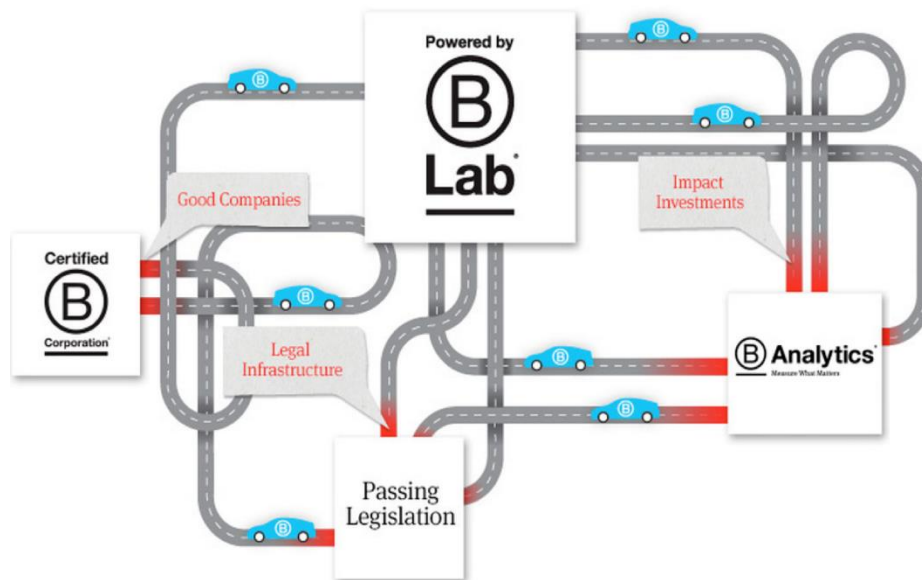


Figure 1 – The B Corporation Roadmap [1]

The first step to becoming a Certified B Corporation is to pass the Performance Requirement. The company undergoing certification must take the B Impact Assessment and receive a passing grade of 80 or above. The B Impact Assessment analyzes the company's impact on its stakeholders, with the analysis varying according to the company's size, sector, and location. The Assessment includes over 350 social and environmental "best practices" that are divided into four categories with differing weights. The first category "Environment" is divided into six subcategories focused on resource use, waste creation, and other various environmental practices. The second category "Workers" looks at the company's social initiatives for its workers; the subcategories include work environment, worker ownership, and compensation, benefits, and training initiatives. "Community" is the third category that examines the company's effect on the local community through seven subcategories, such as jobs created, civic engagement and giving, and company diversity. "Governance" is the final category that evaluates the company's accountability and transparency [1]. The B Corporation website states that completing the Assessment takes 1-3 hours [1].

After the Assessment is completed, the company schedules an Assessment Review with a B Lab Staff member. In the review, the B Lab Staff member helps the company refine their answers for the B Impact Assessment and ensures that specifics of the company are accurately translated into the Assessment. The Assessment Review takes approximately 60-90 minutes [1]. If the company received the 80 or more points required in the B Impact Assessment, the assigned B Lab staff member will demonstrate during the Assessment Review to the company undergoing certification how to submit the necessary supporting documentation. The company will also be required to defend their response to 8-12 affirmatively answered questions on the Assessment. Finally, to complete the Performance Requirement portion of the certification process, the company must complete a disclosure questionnaire listing any sensitive business details for further analysis by the B Lab Staff.

The B Corp certification process also includes specific legal requirements prior to certification completion. The legal requirements were created to support company leaders in their efforts for company growth that benefits all involved stakeholders, as opposed to just corporate shareholders, and to give additional rights to shareholders to ensure that company leaders remain dedicated to B Corp principles. This requirement originated from commentary by corporate leaders that they were forced to abandon the company's ethical principles or socially responsible business practices in favor of maximum monetary reward. An illustrative example is when Ben & Jerry's was purchased by the large multinational corporation Unilever [2]. In fact, the purchase of Ben & Jerry's is considered one of the primary impetuses for the B Corp Movement [3]. By establishing specific socially responsible business practices in the company bylaws, such as support for small-scale suppliers and high worker wages, Ben & Jerry's was able to maintain its dedication to having a positive impact on society and the environment, even after its acquisition by a megacorporation like Unilever.

The legal requirement for B Corp Certification is fulfilled by first altering the company's existing business structure, whether it's a C Corp, S Corp, LLC, or a Sole Proprietorship, to meet the B Corp certification requirements. After certification is achieved, the newly certified B Corp must receive board and shareholder approval and file the company's amended business articles with the appropriate Secretary of State. After the legal

requirement is fulfilled, the company undergoing certification completes the process by signing the B Corp Declaration of Interdependence and Term Sheet and paying the annual certification fees. The annual certification fee structure is shown in Table 1 [1].

Table 1: Annual Fee for Certified B Corporations by Annual Sales

Annual Sales	Annual Fee
\$0 - \$999,999	\$500
\$1 MM - \$4,999,999	\$1,000
\$5 MM - \$9,999,999	\$2,500
\$10 MM - \$19,999,999	\$5,000
\$20 MM - \$49,999,999	\$10,000
\$50 MM - \$99,999,999	\$15,000
\$100 MM +	\$25,000

1.2. Advantages of Certification

B Corp Benchmarks is a collection of the results from all Certified B Corporations that completed the B Impact Assessment, aggregated to quantify the companies' successes relative to one another. Data is validated for each participating company through an Assessment Review with a B Lab Staff member, a review of submitted supporting documentation by B Lab Staff, and the completion of a Disclosure Questionnaire by the participating company. Ten percent of all participating companies are randomly selected to undergo an on-site review and recertification is required every two years [1].

One of the primary benefits to becoming a Certified B Corporation is access to the B Corp Benchmarks. The B Corp Benchmarks allow certified companies to compare their own performance with other Certified B Corps. This knowledge promotes business growth and helps to spread the implementation of socially and environmentally positive practices between certified companies [1]. B Lab provides other services and support for Certified B Corps as well, such as with marketing, sales, and fundraising [4]. Once the certification process by B Lab is complete, the B Corp may have access to the B Corp Benchmarks to retrieve data and information on the business practices of other Certified B Corporations. However, until certification is complete, B Lab or any legal ruling does not consider a company a Certified B Corporation. Alternatively, the generic term "benefit corporation" may be applied in certain states to establish a corporate legal status akin to the Certified B Corp label. Benefits corporations must have an established value system similar to Certified B Corporations that commits to social and environmental wellbeing; however, benefit corporations do not have access to B Corp Benchmarks or a working relationship with B Lab. There is also a level of validity given to Certified B Corporations over the generic "benefit corporation" title. While benefit corporations are required to publish an annual report outlining the impact of their social and environmental initiatives, this report is not verified for accuracy by a third party organization, like B Lab for Certified B Corporations [4]. A third party standard of each benefit corporation's choosing must be used to assess every annual report. Standards must be "comprehensive, independent, credible, and transparent". Some suggested standards are Ceres Roadmap to Sustainability, Food Alliance Certified, Global Reporting Initiative, ISO 26000, Sustainability Quotient, and more.

2. Methodology and Data Analysis

The purpose of this study is to examine the B Corporation movement and to ascertain if the movement provides positive results for its advocates, primarily in the construction arena.

The data compiled was analyzed using the qualitative approach of triangulation. The data obtained from the interviews was interpreted using a three-step process. First, the data was analyzed separately according to professional position to ensure that all data has been properly catalogued. Second, the data was compared using the triangulation method, and extensions thereof, to look for commonalities between the various professionals interviewed. The triangulation method is used to integrate data from multiple sources [5]. The goal of triangulation is to find recurring themes that are prevalent throughout the interviews. Extensions of the triangulation method were also used to further develop a rich understanding of dispute resolution. For example, the theory of complementarity was used with the respondents as they were asked questions that are unique, in the sense that they are overlapping as well as different [6]. The goal of using the complementarity approach is to understand the difference in thinking between business owners from different industry sectors. In addition to using the complementarity approach, the researcher used an additional method of triangulation known as expansion [6]. The

expansion method was used to extend the range of conceptual understanding by asking questions that target different components of the same framework of questioning.

These methods are of particular importance to this data analysis, since the individuals interviewed were asked a variety of questions. The variety of questioning will ensure that potential biases are reduced, by allowing industry leaders to answer the questions in a manner that corresponds to their professional capacity. Consequently, the triangulation method will serve as a filter, allowing the professionals to provide the reader with a strong interpretation of dispute resolution opinion, relative to their role in commercial construction.

Initially data was coded a priori using themes and keywords derived from the interview questions [7]. The a priori codes were used to label the questions asked. In addition, for analysis purposes, the questions were categorized by which participant was asked the question. The ultimate goal of this research is to provide some indication as to whether the B Corp movement is achieving its intended result.

Questionnaires were sent to all certified B Corporations in the U.S. At the time of this study there were 521 certified B Corporations in the U.S., currently there are 874 [1]. Many responses were received that simply directed the researchers to go to the company web site. These were discounted as non-responsive. Thirty responses were received in which the responders took the time to fully answer the questionnaire.

The first questions asked were used to explore the attitudes of the parties involved with the process. Initially a simple question with an expected outcome was asked and all of the participants agreed that the B Corporation movement was a valuable trait of the company.

Next, the parties were asked more specific questions about how the companies utilized the fact that they were certified B Corporations. These questions inquired about marketing efforts, community relations, employee satisfaction and finally profitability. The ultimate goal was to try and determine if the B Corporate certification had a definable positive impact on the company.

3. Case Study: Rubicon Global

3.1. Company Description

Rubicon Global is a waste and recycling solutions provider and a Certified B Corporation. The company is headquartered in Atlanta, Georgia and has about 50,000 sites across North America in all 50 states, Puerto Rico, and Canada. There are eleven primary industries that the company services, and these include: distribution, food service, retail, grocery, hospitality, property management, hospitals, education, government, private equity, and construction. Unlike many waste management companies, Rubicon Global does not own any landfills, haulers, or recycling operations (Rubiconglobal.com); they purely provide management solutions, making them an independent resource for determining optimal, unbiased waste management programs. Their efforts focus on identifying hidden costs associated with waste management needs and streamlining administrative requirements. The Rubicon Global website cites a savings of 20% on average for their customers due to a reduction in waste program costs. Cost saving opportunities are found through the use of “innovative technology, industry knowledge, and strategic relationships” [8], with a strong sustainability footing throughout their implemented strategies. The company promotes waste recycling, re-using, or reducing efforts to their customers, in addition to or as part of cost-saving initiatives, and has pledged to divert 100% of their customers’ waste to “truly sustainable alternatives” by 2022 [8].

3.2. B Impact Report

A review of Rubicon Global’s 2012 B Impact Report shows an above-average score in three of the four categories. The company received an overall B score of 103, compared to the median of 80 (of all 504 businesses that completed the 2012 B Impact Assessment). They excelled in the Environmental category, receiving 34 points, as compared to the median of 9. For Community, they received 9 points less than the median of 32. For the categories of Workers and Governance, they received 8 and 7 points, respectively, more than the median scores.

3.3. Rubicon Global for Construction

The Construction Industry is one of the many industries that Rubicon Global serves. For construction projects, Rubicon Global can provide a waste reduction plan and a cost savings plan, both customized to every individual project. Their services can also be used to help projects attain LEED certification, such as for LEED New Construction’s Materials and Resources Credit 2: Construction Waste Management. Rubicon Global’s construction services focus on specific project types, which include: convenience stores, grocery stores, hotels, office buildings, restaurants, and retail [9].

4. B Corporations for Construction companies

4.1. Prevalence

A search for Certified B Corporations with a relation to construction resulted in a list of 49 companies across the globe. This list was further examined to remove search discrepancies. Thirty-five companies are Certified B Corporations that are involved with the building industry. A broad range of business types was included to create a more thorough image of the prevalence of Certified B Corporations within the entire Building (AEC) Industry.

A closer examination of the Certified B Corporation involved with the AEC industry revealed that only five are construction companies, in particular those classified as General Contractors (GCs). A closer look at these companies resulted in additional information on these companies' socially and environmentally positive practices. For environmental benefits, the GCs listed the following initiatives: managing construction waste, minimizing energy consumption, reducing carbon emissions, monitoring indoor air quality, and using materials with low VOCs and low emissive adhesives. For social benefits, the GCs listed the following initiatives: employment opportunities (training and worker development), profit donation, affordable housing, team collaboration, and employee benefits/profit sharing. There were two additional initiatives listed: value engineering for sustainable solutions and general quality management; while these initiatives may have secondary environmentally or socially positive results, their ultimate motive is cost saving, or profit growth.

4.2. Benefits

While many construction companies want to promote themselves as sustainable, there are few that have a business infrastructure that is clearly outside the company's sustainability framework and initiatives. A sustainable business is often defined as a company that works towards a triple bottom line, meaning success in the social, environmental, and economic (profit) dimensions [10], as opposed to just profit. By this definition, a B Corp is a sustainable company. By pursuing certification as a B Corporation, construction companies can start the process towards becoming more sustainable. The guidelines established for B Corporations in general provide a clear format for the pathway of construction companies toward sustainability. The certification also provides a marketable and reputable branding mechanism for promoting and defending companies' sustainability efforts.

4.3. Hindrances

One hindrance to a construction company becoming a B Corporation is lack of knowledge. Knowledge of the existence of B Corporations is limited across most industries, and this should be rectified with further publicity on the success of Certified B Corporations. There may also be confusion around how to become a B Corporation, since the process is time consuming and can be difficult [11].

Another hindrance to certification as a B Corporation for construction companies is a difficulty changing company values. Larger construction companies may struggle to receive adequate buy-in from company executives to allow for the company value structure to be altered or rewritten. A final hindrance to certification as a B Corporation for construction companies is the restructuring of profit distribution. In order for the necessary programs to be instated, some money may need to be diverted from individuals' paychecks or bonuses to provide adequate funding. There will likely be considerate hesitancy by company executives and employees around this final hindrance.

5. Conclusion

The benefit corporation business structure allows for-profit companies to create and adhere to alternative standards for success. Benefits corporations value their role and impact on society and the environment, in addition to their ability to generate profit, and the benefit corporation status facilitates the communication of and an adherence to these principles. In particular, company leaders of benefit corporations are legally permitted to consider the effect of the business on all involved stakeholder, as opposed to just on company shareholders.

B Lab is a non-profit that administers the Certified B Corporation system. The certification system provides a pre-determined, uniform, and prestigious platform for companies to design and express their entire value system. To become a Certified B Corporation, an extensive series of tests and evaluations must be completed to confirm the company's dedication to environmentally and socially positive initiatives. Once certified, B Corps are added to a web of similarly certified benefit corporations to promote collaboration and growth between and within all involved companies.

The construction industry is a prime industry for certification as a B Corporation because of the industry's desire to express its sustainability and the lack of existing structures to do so. B Corporations are sustainable in the sense that they focus on the continued success of the triple bottom line. By undergoing certification, construction companies can improve their sustainability initiatives and add credibility to their efforts.

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