

'Hot Sites!' for Disaster Recovery

By Richard E. Strauss Esq.

Any company with heavy dependence on computer operations should consider a "hot site" in its disaster recovery planning. A disaster recovery plan is intended to anticipate disruptions of business due to power failure, central telephone outage, natural disaster or other causes. The plan establishes strategies to minimize business and financial loss and ensure a timely resumption of operations. A hot site is a remote facility at which a company installs back-up computer and data processing operations and from which it can conduct business if its regular location becomes unavailable as a result of a disaster.

Often, the focus of a disaster recovery plan is to back up information contained in the mainframe computer. However, today's businesses are highly dependent on local and wide area computer networks and nationwide telecommunications, which are much more decentralized. In this modern workplace, disaster planning requires a company to be able not only to retrieve archived data from its computers, but to instantly recreate computer networks and phone banks for employees so that they can continue to function. If a company requires 20 to 30 days to recover from a disaster, this may be too long for a business whose survival depends on continuity.

Such firms should consider use of a hot site at which their standby computer and communications networks and offices can become operational for critical business functions within 24 to 48 hours after a disaster. The site should be located in a separate power grid and central telephone office, and be geographically far enough away so as not likely to be affected by the same disaster as the regular facility, but not too far as to make travel by employees impractical.

Dedicated Hot Site

A company may own or lease a dedicated standby center. This is a separate facility, constructed and maintained by the company for its own use in a disaster. It may stand idle without being used except in case of emergency occurring at the company's regular facility. The benefits of such a dedicated facility are:

- **Assured access.** There is no sharing or prioritization with another user of the same facility. There is no risk of being bumped or fighting for space in the facility.
- **Compatibility.** As the center is designed only for one company, this increases the likelihood that in a disaster the back-up system will take over with maximum effectiveness.
- **Flexibility.** As technology changes, it is easier to make revisions in the back-up systems to match the company's current systems.

Thus, the dedicated stand-by center increases the likeli-

hood of achieving the best response to disaster. However, cost is a serious drawback. There is the high cost of creating redundant or excess capacities and the acquisition and/or construction, equipping and maintenance, and carry cost of real estate — all while the facility stands idle awaiting use in an emergency.

There are alternatives to cut or recoup costs. The facility may be regularly used by a non-priority tenant which agrees to relinquish the site when a disaster occurs. Another option is to share in the creation and use of the contingent center with another company on a reciprocal, primary or secondary basis. In this way there can be mitigation of the cost of real estate acquisition and development and of much infrastructure. This could take the form of a joint venture. There would need to be a formal agreement detailing the circumstances under which the site may be used and the costs involved.

However, in either the lease or joint venture, which of the companies will jeopardize its own business viability by obligating itself to share or relinquish the center in a disaster? Some arrangements are therefore only "best efforts" — where back-up is promised so long as the time is available. If a disaster occurs, and use of the site is needed immediately, there is no practical legal remedy if the current user refuses to vacate in violation of the agreement. In most states, one can't use force to recover a facility. Nor would a company want to do so. Resorting to the courts is too slow a process when a 24-hour recovery time is needed to access the site. Therefore, some companies would not consider these arrangements as viable alternatives to the dedicated site.

Other Options. One alternative is to create the back-up site in the company's facility at another location. When a company has more than one computer facility, it may be able to provide its own back-up for certain critical applications — especially if they are in separate geographic locations and are compatible. Each site backs up the other, so every site must be designed and equipped for some, but not total, redundancy. As some normal company functions

must be sacrificed in a disaster to allow for critical needs, this solution is a shorter term one than the dedicated stand-by facility.

Another alternative is to subscribe to a hot site facility from a commercial vendor. The company books contingent seats and pays monthly reservation fees. In a disaster, the company uses computer hardware, office space, utilities and communications in the vendor's remote location. For a company, there is no real estate acquisition, leasing, construction and equipment component. There is, however, a risk of being bumped in a multiple or regional disaster, because each seat is sold a number of times to different subscribers. In that event, the company could be pushed to an inconvenient secondary location, or would have to share or allocate computer or data processing or office space in the center with other subscribers. The reservation in the center is also limited to a specified time frame.

Real Estate Issues Unique to the Dedicated Hot Spot

Uses. The facility must be capable of accommodating special uses, such as higher density emergency occupancy than in a normal office or light manufacturing facility, greater electrical supply and demand, greater HVAC, uninterrupted power supply, and special communications link-ups. There should thus be a preliminary architectural and engineering assessment of feasibility and cost.

Zoning. As acquisition and renovation is costly, to achieve savings the site may well be situated in a "back office" type area or even in a warehouse or light manufacturing area. If the company is purchasing a building in a warehouse or light manufacturing area, it must check the zoning laws to determine whether an office use is permitted in that zoning district.

Density. The company may want to use the center for a much higher occupancy density in an emergency situation than normal usage reflected in the certificate of occupancy for the building and in its construction. Building codes call for infrastructure which is a function of density of usage such as floor load, emergency exits, HVAC capacity, bathrooms and, in a multi-floor building, fire stairs. The building code tests are self-correcting for density of usage — so the building can be redesigned to allow greater density — more exits, greater HVAC, more bathrooms. Thus, structural changes might be required to accommodate a higher density use. Compliance with the building code is a legal requirement, so greater density use than code allows could be a violation of law. If there was an accident or injury while the building was being used in violation of law, this could trigger civil liability of the company. Also,

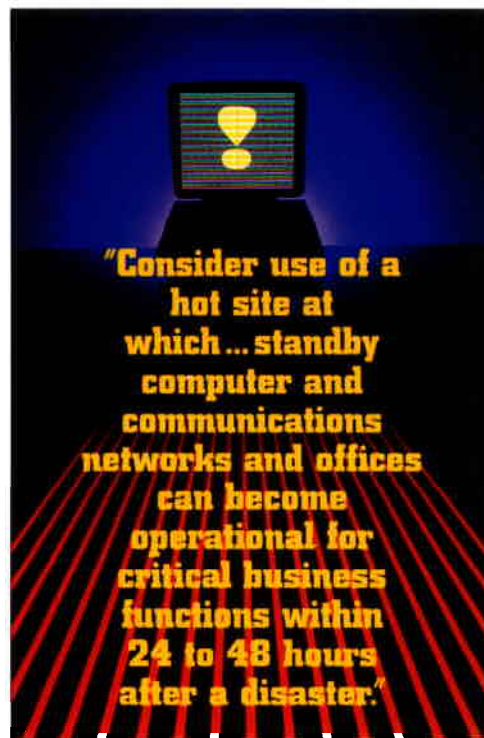
criminal liability can be placed on corporate officers in the event of a criminal violation of a building code by the company when the officer was responsible for and directed the activity.

Parking. Normally, the amount of parking is a function of building square footage, not occupancy. If the building was originally constructed for light manufacturing or warehouse use, it may have parking in a lower ratio than an office use parking ratio, so that there may be insufficient parking for office use. Adding parking requires special approvals.

Leased Space. In a multi-tenanted building, the hot site facility creates certain unique issues. A dedicated power or uninterrupted power source is required, but not every building

has this facility (its own generator and/or dual power feed) or would be able to allow a tenant to construct this facility. Extra power is necessary, but not every building has sufficient power capacity to meet the special electric load requirements of the facility. The feasibility and cost of running extra electric risers and hook-ups to the space must be determined. Special communications may be required to link up with other company facilities and to obtain special back-up communications sources in case the normal provider is affected by an emergency. Roof facilities such as a satellite dish may be necessary. Very likely the building's standard HVAC will not be sufficient for the special computer and electrical usage of the facility. As a result, the tenant may need to install supplemental HVAC. Twenty-four hour access will be needed so the tenant will be able to use the facility whenever required in an emergency.

A business continuation strategy which includes a hot site must focus on all of the above issues in coordination with other essential areas such as human resources, technology and insurance. By understanding in advance the special real estate related issues, the company's real estate executives can serve an essential role in the planning process. ■



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