

Costing Out Contracts: The Key to Successful Negotiations

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Before Getting To The Table

STRATEGY AND PREPARATION

STRATEGY

Think about where you want to end up and when you want to get there.

Decide which units to focus on (and when).

Assemble the Team.

Know that your strategy and timetable must be flexible.



PREPARATION

Know all you can about the situation and the “other side”.

Make sure that all relevant information is available.

Input of Department Head(s).

Setting parameters and determining duration

Knowledge is Power:

- KNOW THE BARGAINING HISTORY OF THE GROUP
- KNOW THE PLAYERS (on both side)
- Contract Review; Grievance Review
- **Look at Internal and External Comparability**
- Understand the realities of the fiscal situation and be able to explain
- Stay informed of other settlements and awards


Tips At The Table

AND FOR NEGOTIATIONS GENERALLY

CREDIBILITY

At all times maintain the highest degree of credibility

Never make an absolute statement that is not accurate or that you may back away from later




YOUR POSITION

If what the other side is proposing is unreasonable, then consider to what extent you should reveal your position.

EMOTIONS

Never react emotionally ... unless it serves a purpose.
Sometimes no reaction is the best reaction.



ASSUMPTIONS/ MOTIVATIONS

Consider what is motivating the other side and how to best respond

Question assumptions about what the other side wants.

WHEN TO ACT/ WHEN TO START

Do not start negotiations too soon.

Know when to talk, when to stop, and when to caucus.

Caucus... caucus...caucus.

LABOR NEGOTIATIONS

1. Strategy/Flexibility
2. Bargaining is a Two-Way Street

3. Preparation
4. Knowledge is Power
5. Interest-Based v. Traditional Bargaining
6. The Power of the Written Offer
7. The Power of Off-The-Record Offers
8. The Unresolvable Issues
9. What To Do When You Reach a Settlement
10. Record Keeping
11. Winning

Ground Rules

Every situation is different
because every group is different

Review history – consider why
either side wants or does not
want ground rules

KISS Model

Interest Based Bargaining

- Collaborative v. Traditional Collective Bargaining
 - False dichotomy
- Listening as a Negotiation Skill
 - As a way of avoiding mistakes
 - As a sign of courtesy and respect
 - As a way of allowing ventilation
 - As a means to discover underlying concerns
- Look at the issues and interests involved in the negotiations to inform responses

ISSUES

Have a variety of issues and categorize them

- Must haves
- Wish list items

Categorize Union Issues

- Identify non-starters (firmly and early on)

Work on narrowing the issues

Be mindful of JLMC limit on Issues



On the Record v. Off the Record Proposals

- The Power of the Written Offer
- The Danger of the Written Offer
- The Power of the Off-the-Record
- The Danger of the Off-the-Record

Off the Record can occur:

- At the table
- Elsewhere
 - Pro-to-Pro or Amateur-to-Amateur

RECORD KEEPING

Keep Notes or Minutes at Sessions

Keep an Organized File



INVOLVING COUNSEL

At a minimum should keep your labor counsel informed or involved behind the scenes (especially with public safety or teachers that may go to mediation)

Use counsel to draft (or finalize draft of) MOA– how agreements or language is added to CBA can be important

Counsel can provide insight into what is happening in other communities

THANK YOU

This presentation and any Q & A is “guidance” which does not constitute legal advice for any specific situation (no matter how detailed and specific the question may be).

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