The New Team Member: Negotiating with Multiple Unions

By

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Introduction

The purpose of this paper is to review my experience and provide insight that might assist a new member on a negotiations team.

I was formerly a union representative with the Amalgamated Transportation Union (ATU) at the San Francisco Bay Area Rapid Transit District (BART) then hired by BART as a District Senior Labor Representative. On the union side, I served as a member of the union negotiations team because I had been a member of its Executive Board. In my new role, the 2009 bargaining cycle was my first negotiations as a member of a management team. My goal was to bring insight and understanding to both parties about negotiating goals and interests.

Selecting new members for your negotiating team is one of the most important things the Chief Negotiator and Manager of Labor Relations has to do. The selection of new members should involve an assessment of the individual’s experience, knowledge of the contractual requirements in their areas of expertise and their ability to work with other members of the team.

It is important that that the Labor Relations or Human Resources Department have critical input on the composition of the team. Departmental involvement is also important. The decision to include or exclude certain Managers on the bargaining team should be carefully vetted. It is extremely important to determine the best fit for new team members so they are in roles best suited to their expertise. The new member must be able to feel he/she can contribute to achieving the goals of the negotiating process.

The Chief Negotiator should clearly articulate the roles, expectations and specific responsibilities of each member. Most importantly, the team leader must include new members in all discussions regarding the expected goals and outcome of negotiating with multiple unions.
Historical Perspective

BART, a California transit district, was formed pursuant to the “San Francisco Bay Area Rapid Transit District Act” (California Public Utilities Code, § 28500, et. seq.). The Legislature determined that a special transportation district was appropriate because of the need for full utilization of the San Francisco Bay as a system for transportation and the unique challenges posed by the needs of numerous jurisdictions. The District is governed by nine Directors, several with overlapping city and county representation. They are vested with the authority to determine all questions of District policy and to carry out the purpose of the Act. The Act provides for the recognition of labor organizations and for collective bargaining.

BART has three recognized unions and two associations: the Amalgamated Transportation Union (ATU), Service Employees International Union (SEIU), the American Federation of State, County and Municipal Employees (AFSCME), Bart Police Officers Associations (BPOA), and Bart Police Managers Association (BPMA).

Historically, the two largest unions, ATU and SEIU, negotiate the general provisions of their contracts together in joint bargaining sessions with the District including provisions on sick and vacation leave, union recognition, medical and retirement benefits, past practices and management rights.

Negotiating during difficult economic times

The recession that began in late 2007 continued as negotiations opened in the spring of 2009 on all of BART’s five labor agreements. The District was facing a shortfall in fare box revenues, sales tax and state transit assistance.

Negotiations for the 2009 contract year would be different from any others in the past. Due to the financial needs of the District, for the first time in its history, the District needed to seek concessions from its employees because even after raising fares for the riding public and cutting expenses, it still faced a deficit.

Also for the first time, the District hired a non-BART employee as their Chief Negotiator. The District retained a law firm to represent the District in collective bargaining. In the past the District’s Manager of Labor Relations led negotiations; however the Manager had passed away earlier in the year.

The Negotiation Team Process

In light of the necessity for cost-sharing and concessions, a different approach was taken by the Chief Negotiator. In past negotiations, each party had presented complete draft proposal
language. However, a new approach was used to change the process. Conceptual outlines of suggested changes to the collective bargaining agreements were presented to the unions reflecting the District’s ideas for cost savings targets.

This approach was also new for the District team members who had negotiated contracts in the past. The District team also needed to understand the general parameters around cost sharing and saving money due to the financial challenges the District faced.

In the midst of the recession, when riders were concerned about job losses and fare increases, a more open communication was required with the public and employees of the District. The District saw the necessity of taking a more direct approach. This occurred at the beginning of the “blogging and tweeting era” where riders and citizens had become more mobilized and vocal about public employee bargaining. And, many unemployed riders were emailing the Board of Directors contrasting their economic circumstances with those of District’s employees.

**What Worked with the negotiations approach**

The Chief Negotiator assigned a Principal Labor Relations Representative to each union and presided over the two largest bargaining tables with ATU and SEIU who together represented the majority of the District’s employees. This setup allowed negotiations with the smaller unions (AFSCME, BPOA, and BPMA) to run concurrently with the larger tables.

The negotiating team was composed of representatives of each department and the Labor Relations Representative that administered the contract for a specific area. This worked well in that as changes were made to draft proposals, subject matter experts were available who understood the proposed changes, contractual requirements and operational impacts.

One of the important duties of the Chief Negotiator was to keep the negotiations team informed of the goals and objectives based on the requirements of the Board of Directors and the General Manager. The team had to understand that all information provided to the Chief Negotiator could not be discussed with the whole team although important changes in strategy would be shared and input solicited. Managers and Labor Relations staff had to have a firm grasp of the negotiations process so they would be prepared for future negotiations.

The Media Department provided the public with a view of negotiations which allowed them to understand the needs brought by the District’s financial constraints. This Department provided the media with information regarding salary scales, cost savings associated with changes to the benefit packages of all employees and how proposed work rule changes would save money and increase efficiency.
To get the District’s position out, the Media Department also employed the internet and social media to respond to questions and comments from both employees and the public. This process was used by the unions too. City and County negotiators should consider all forms of media when presenting their positions to the public. Public feedback to the Board of Directors was an important element in the settlement of the BART contracts.

What could be improved for the future?

- The Chief Negotiator must keep the team fully informed of strategy changes. A heads-up about changing Board parameters or strategy could reduce the possibly of dissent or a feeling of lack of inclusion.

- Every member must feel they are a part of the team. Keep everyone involved as much as possible with the process. The team sitting across from the union must be united in its determination to achieve the objectives of the organization.

- Contract language changes should be vetted with the team prior to deciding to present the new language. It is very important that subject matter experts review all proposed changes and their operational impact and effect on the contract as a whole.

- Don’t use the media to demonize employees. This can harm the long-term relationships and trust and could negatively impact in future negotiations.

Looking forward and its effect on future negotiations

The District achieved its goal of changing work rules and saving money in the 2009 negotiations. However there are some things that should be looked at in advance when planning negotiations.

- The decision of who will be your Chief Negotiator should be decided as soon as possible. Will it be internal or external?

- When selecting your negotiating team, bring new team members in as early as possible

- When selecting Managers to represent their Departments, they must have the authority to make decisions to assist the Chief Negotiator and Labor Relations Representatives on the team.

- When negotiating with multiple unions, the Chief Negotiator must give the Negotiator for each individual union the objectives, goals and time limits that are expected of
him/her prior to the assignment. As with the Managers, the Principal Labor Representatives/Negotiators must be clear on their authority.

- The objectives and vision of the organization must be clear to the team. Everyone involved should understand and agree to that principle.

- Management must understand that the union is not its enemy and must be willing to clearly communicate the objectives of its bargaining proposals and why changes in certain terms and condition would benefit the public entity.

- Team members must maintain confidentiality.

**Conclusion**

We must remember that the union leadership’s job is to get the best contract possible for its members. It is Management’s responsibility to provide the service required by the public. The parties may not agree on the goals of the organization or on how both parties achieve their goals, but they must work together to resolve problems in the work place.

The effectiveness of a negotiating team depends on numerous factors, the most important of these being communication, trust and subject matter expertise.

A successful negotiation not only means the goals and objectives of the teams on both sides are resolved, but that future negotiations may be built on the outcome of past negotiations. Neither side will ever be completely satisfied with the outcome of negotiations, but we must be able to live with it and move on.

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