Contract Negotiations is a process Labor and Management undergo in order to come to an agreement on wages, hours, and other terms and conditions of employment. The type and length of negotiations can be directly related to the detailed preparations, or lack of, before sitting down at the table. While the current economic situation, political factors and the bargaining leverage of Management and Labor drives negotiations, advance preparation allows your team to anticipate burning issues and find alternative solutions within your given parameters to ease the process.

Creating a Negotiations Notebook is a method used to organize comprehensive data and notes during the bargaining process. It provides a quick reference to important details that allows your team to make informed decisions. While a Negotiations Notebook may vary in format and depth of content, the basics of the Notebook include a copy of the current contract along with proposals and counter proposals from each side.

A typical Negotiations Notebook should include:

- Analysis notes from the previous contract negotiations along with any relevant bargaining history
- Grievance records during the period of the current contract
- Listing of members of the Management and Labor teams and their respective roles
- A copy of the current contract
- Confidential strategy and parameter information
- Previous contract lengths, current status and expiration dates of other contracts with your agency
- Recent settlements by comparable agencies
- COLA increases to salary
- CPI data for your region
- Labor's proposal
- Current and proposed benefit cost calculations
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- Total compensation calculations including costs for each 1% increase to salary
- Costing calculations for each proposal
- Salary and benefits survey of surrounding comparable agencies
- Labor market demographics including the budget and per capita income
- A copy of the employee relations ordinance

Analysis of Previous Contract Negotiations and Grievances

Preparations for future contract negotiations actually begin at the conclusion of contract negotiation with an analysis of the process and the results achieved. Management and Labor tend to have a particular style of bargaining, similar reactions to appeals, pressures or situations and are influenced by past behavior. Reviewing the previous contract negotiation process along with grievances brought during the term of the current contract indicates issues that may surface during subsequent negotiations.

My experience included working for an agency that conducted a city-wide salary study (represented and unrepresented positions) covering a period that ended approximately six months prior to the expiration of the Labor contract. Based on the results of the study, salary increases were given to a majority of Management positions. However, Labor positions were shown to be well compensated; thus no salary adjustments were made to those positions. Labor was very displeased with the result and their displeasure set the tone for a year-long contract negotiation which was headed for impasse, with agreement finally being reached at the eleventh hour. Complaints about the survey results helped us recognize and understand Labor’s anger and prepared us for a difficult contract negotiation.

When evaluating previous contract negotiations, it is helpful to answer these questions to determine if the process was successful:

- Were our goals met?
- Did both parties feel that their issues were addressed (whether or not they agreed with the end result)?
- Would Management do anything differently if they had the opportunity to start over?

Future negotiations are typically years in the future and the composition of the Management Team often changes. It is highly recommended that written notes of the analysis be retained (rather than relying on a team member’s memory) and included in the Negotiations Notebook for subsequent contract negotiations. With this knowledge, your team will be assisted in formulating a strategy for the next contract negotiations by avoiding errors that may have hindered the past process.
Selecting the Team

Most agencies have an experienced bargaining team or a position designated specifically to negotiate contracts. If the agency anticipates an overly complex or difficult negotiation, they may hire an outside negotiator for additional support. An outside negotiator may also be brought in when the person designated to be the Chief Negotiator lacks sufficient experience.

Personalities, negotiating styles, and a good working relationship with Labor should be considered when selecting a Chief Negotiator and Management Team. A hostile relationship between the parties can make for a difficult contract negotiation while a good working relationship may give your team the extra edge it needs when dealing with difficult or sensitive issues. If possible, do not enlist previous members of the Management Team who have demonstrated impatience or a short temper regarding the process because this adversely affects the dialogue at the table.

The role of an in-house Chief Negotiator may be assigned to an Assistant City Manager, City Attorney, Administrative Services Director, Human Resources Director/Manager or similar position. The size and structure of your agency will help determine who is cast as the Chief Negotiator. A Chief Negotiator usually will be given the authority to make decisions based on parameters determined by the governing board.

The Chief Negotiator commonly responds to Labor’s requests by informing them that the final proposal must be approved by the governing board and that while he or she has full authority to negotiate, the ultimate decision is made by the City Manager and City Council. It is highly recommended that the Chief Negotiator not be the ultimate decision maker as this does not allow him or her to defer to a higher authority and could undermine the Chief Negotiator’s credibility at the table if each Labor proposal is not met with an immediate decision. Characteristics of a good negotiator include excellent listening skills, patience, perceptiveness, and the ability to work under intense pressure.

A typical team consists of a Chief Negotiator, Human Resources Director or Manager, compensation/costing expert, and at least one note taker. Because the Chief Negotiator may not have knowledge about day-to-day operational issues or the relationship between Labor and the Management, the Human Resources Director/Manager plays a key role in advising the Chief Negotiator in these areas and anticipating issues of concern. This is especially helpful when drafting contract language as the Human Resources Director/Manager will have to interpret and enforce the provisions throughout the term of the contract.

The compensation/costing expert could be an accountant, human resources professional, or payroll staff member who is familiar with the relevant data and
who can predict true costs of proposals. An example of a situation involving additional costs is a proposal to increase vacation accrual. The costing is not made up simply of additional hours, but also includes the extra staff needed to cover the absence of the vacationing employees. It is highly recommended that the same costing expert perform the calculations prior to and during negotiations. It is not essential for this person to sit at the table, but he or she should be available when needed.

At least one note taker, preferably two, should be included in the team. This position could be filled with personnel from the human resources department or other Management employees who are familiar with the negotiations process. Typically, employees assigned to this task are not experts at recording verbatim minutes. With two note-takers, there is a better chance that one accurate record can be created. The notes are useful for refreshing Management’s memory of a situation and when interpreting the intent of unclear contract language.

Additional support staff (who usually do not sit at the table) are important to the team as they are able to concentrate on individual pieces of the big picture. They assist by scheduling meetings, reserving rooms, making copies and performing other administrative tasks. I have found that a Management team of five people works well to maintain confidentiality. Once the team is in place, the next step is to set the calendar for each phase of negotiations and assign deadlines for individual projects.

Setting the Calendar

Depending on the size of the bargaining unit and anticipated difficulty of negotiations, preparations could begin three months before the expiration of the Labor contract. If no major problems are expected and the bargaining unit is relatively small, one to two months may allow sufficient time for preparation. Preparing too early could result in stale data by the time bargaining begins.

With this timeline, Management should create a checklist and begin setting dates obtaining the following information to be included in the Negotiations Note Book as described in the listing that begins on page one of this paper.

Some of these items, such as the copy of the current contract, status and expiration dates of other contracts, CPI data and employee relations ordinance can be gathered by support staff and while other members of the team focus on larger and more complicated projects. The remaining items should be grouped into economic and non-economic categories and assigned to the costing/compensation expert, human resources staff and other members of the negotiations team.
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Costing

Accurate costing is essential to successful bargaining. Parameters and strategy are based on the current economic climate, budget, compensation philosophy, and the results of costing the past, present, and proposed salaries and benefits. An error in costing could cause the Chief Negotiator to exceed the parameters established by the agency and jeopardize his or her future employment.

Maintaining a running history of changes to wages and benefits for at least ten years, preferably twenty years, is very useful to the Chief Negotiator who may not be familiar with the prior negotiating history. It is common for Labor to use the tactics of “this is the way it has always been” or “this benefit was promised to us years ago and we have not been fully compensated for our concession during bargaining”. A historical listing of changes is a tool that enables the Chief Negotiator to conduct informed bargaining, rather than relying on the word of the other side. Labor may have the perception that it was “cheated” or “wronged”, but the numerical data will provide evidence to confirm or deny this.

To begin preparations for current negotiations, the costing/compensation expert should calculate the amount of the current salaries and benefits for each member of the bargaining unit to establish a baseline for estimating the additional cost of Labor’s proposals.

Items for which costs should be ascertained include:

- Current salaries plus expected merit increases
- Scheduled cost of living increases
- Typical overtime
- Health, dental and vision allowances
- Retirement account contributions
- Longevity and scholastic pays
- Short and long-term disability
- Life insurance
- Uniforms
- Car allowances
- Cell phones
- Contributions to deferred compensation plans
- Bonuses and special pays
- Vacation, sick leaves, and holiday pays
- Additional items to cost include the amount of tuition reimbursement and bereavement leave used during the life of the contract

Generating this information will provide comprehensive information for the Chief Negotiator so that recommendations are based on budget constraints. Once the
total compensation information made available, it is easy to calculate increases in increments of one percent of salary for the bargaining unit.

The next step is to calculate the costs of Labor’s proposal. The costing expert should conceptualize associated costs with each proposal. Items that appear to be non-economic can have hidden costs. The costing expert should identify these so that a true picture of the total cost of all proposals is known.

Labor has a tendency to estimate a cost for a proposed benefit, such as an increase in sick leave accumulation, that does not reflect its real cost. In this example, the real cost of the increased leave would be the salaries and overtime for replacement employees covering shifts. This benefit could have an even larger financial impact if accrued sick leave is paid out in a lump sum upon retirement at a higher rate.

**Survey Data**

When conducting surveys of surrounding cities, it is essential that the agencies surveyed are in fact, comparable. To avoid comparing apples to oranges, some labor contracts specify a list of agencies deemed comparable. Time is saved when both parties agree on a standard set of survey agencies making the gathering of additional data unnecessary.

If your agency does not have an established list of comparables, some items to use in determining comparability are:

- Number of employees
- The type of services rendered
- Geographical location
- Budget

A total compensation survey of benchmark classifications, as well as any classifications for which Labor has proposed a separate reclassification request, provides a basic understanding of where your agency falls in terms of market comparability.

When conducting a survey, the following items should be noted:

- The effective date of wage and benefit changes
- Base salary vs. retirement salary
- Actual salaries vs. salary ranges
- Number of incumbents
- Job titles vs. job duties
- Average length in position in order to determine vacation benefits accrued
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- Employee vs. employer paid benefits
- Differences in retirement plans and formulas (i.e. PERS, OCERS, LACERS, LACERA, STRS)

Maintaining a good working relationship with the agencies you survey aids in obtaining the details of recent contract settlements. Labor will also obtain this information and use the results as bargaining leverage. If Management is well versed in these areas, preparing bargaining strategy and aligning it within the given parameters is easier.

Other Data

As previously discussed, reference data such as COLA increases over the last ten to twenty years, copy of the current contract, confidential strategy and parameter information, previous contract lengths, current status and expiration dates of other contracts with your agency, CPI data for your region, Labor’s proposal, labor market demographics including the budget and per capita income, and a copy of the employee relations ordinance can be gathered by support staff and organized in the Negotiations Notebook with an index and tabs for easy reference. Additional background information can be gathered by speaking with Department Heads regarding issues they feel may arise and also by reviewing Labor’s website.

Developing a Game Plan

Once all data preparation, including analysis of previous negotiations and grievances, costing of current and proposed changes, total compensation survey, and other historical data is complete, the Chief Negotiator meets with the City Manager and Council to study the data, obtain direction, and formulate parameters, goals and strategy for negotiations. A copy of the Negotiations Notebook should be given to the City Manager and Council so they have all of the statistical data prior deciding on parameters.

In developing economic parameters, the following items are relevant:

- Recent settlements by surrounding agencies
- Past contract settlements
- Budget
- Level of settlement necessary in order to avoid a strike
- Employee recruitment and retention

The economic climate is the most influential factor in establishing parameters. The agency must forecast its revenues and expenditures for the life of the
agreement and decide how much they are willing and able to spend to settle a contract. The level of productivity experienced during the previous contract can also be used as bargaining leverage and may be a factor in determining parameters.

Once parameters are established, Management should compose a written list of goals and objectives it hopes to accomplish. From this point, a strategy will develop depending on the style of the Chief Negotiator. When an agency is experiencing budgetary constraints, the Chief Negotiator may take the approach of "Management is authorized to provide a certain dollar amount; how you spend it is up to you". This strategy puts pressure on Labor to prioritize its proposals and conveys the constraints within which Management is working. Some agencies prefer to negotiate based on the Consumer Price Index (CPI).

Depending on the progress of negotiations, Management’s strategy may change to more closely follow the agency’s goals and objectives. The confidential list of Management goals and objectives should also be placed in the Negotiations Notebook and revised as necessary. If the agency is well prepared, contract negotiations will begin once the bargaining book is complete with all relevant data for use in anticipating the climate of negotiations and formulating an effective strategy to achieve a contract that meets the agency’s goals.

**Summary**

“Most negotiations are won or lost even before the talking begins, depending on the quality of preparation (Roger Fisher and William Urv).” This statement can be applied to many subjects, but is especially true for negotiations.

The role of the Negotiations Notebook is to provide a source of information for members of the Management team and for the ultimate decision makers; it is as important to the negotiating process as Management and Labor. Much of Management’s time that would otherwise be spent on accomplishing the daily activities of the agency is diverted to preparing for negotiations. The many hours spent in creating this encyclopedia of information are well worth the effort in easing the process of negotiating the Labor contract.

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