



THE PUBLIC SECTOR

10 tips for bargaining big change

by Jonathan Holtzman

In preparing for a recent panel discussion, I had the opportunity to work with three of the leading public-sector negotiators in northern California: Micki Callahan (formerly head of the state mediation service, now San Francisco's HR director), LaWanna Preston (formerly SEIU Local 790's political director, now Oakland's labor relations director), and Alex Gurza (San Jose's longtime head of labor relations, now deputy city manager). The tips below were developed with their input. That said, any bad or controversial ideas are mine, and I am solely to blame.

1. Develop an overall strategy to guide all aspects of the negotiation.

- Develop *and maintain* organizational alignment. This includes your executive team, department heads, operational managers, finance, legal, HR, and of course elected officials. Be sure elected officials know both the pros *and the cons* of every proposal. Provide options to elected officials along with a staff recommendation. Anticipate the level and nature of opposition to the plan, and be sure elected representatives believe the plan is worth the inevitable pain.
 - When bargaining major changes, both reaching and maintaining alignment are particular challenges because big changes usually affect everyone in the organization, including your peers and even your superiors. Maintaining organizational alignment is also particularly difficult because such bargaining usually takes place over an extended period. As a result, facts and positions change, and flexibility in management's position is frequently necessary.
- Make sure internal communications channels are firmly established before the bargaining begins. Inevitably, there will be dissenting voices when seeking major changes; make sure they are heard. Anticipate that elected officials will be lobbied, and assist them to understand the issues fully.
- Start with a comprehensive summary of the need for the change and analysis of the issue before proposals are even made at the table. The statement should be supported by verifiable facts. Outside expert reports are especially helpful. Make sure your "statement," which may be in the form of a staff report, for example, is approved by

your governing body in public and conveyed to the union before bargaining.

- Be sure your plan can actually be accomplished. Consider operational problems. Consider how quickly change can reasonably be implemented.
 - Gather all the facts before making your proposal. Have a complete cost analysis prepared at the outset, and be prepared to verify/validate union proposals. Do actuarial and comparability work ahead of time (when applicable).
- ### 2. Bargain early, and set reasonable deadlines.
- Big change takes time to discuss fully. Start early enough, and meet often enough that you can easily show your good faith.
 - If there are deadlines (e.g., ballot timing or budget), make them known at the outset and get buy-in if possible on a mutual goal to complete bargaining in time. Without deadlines, it is often especially difficult to wrap up negotiations over big changes.
 - If there are no clear deadlines, attempt to set mutually agreed upon parameters for the process. For example, if no agreement is reached by a particular date, both sides agree to mediation. However, *do not* set arbitrary deadlines unilaterally.
- ### 3. Carefully consider opening proposals.
- Choose your issues. The more issues you raise, the more constituencies you challenge.
 - When bargaining for major changes, don't over-ask. It undermines credibility and provides an unwarranted opportunity to organize and rally opposition. It may also lead to a premature declaration of impasse.
 - On the other hand, leave room for flexibility. Provide real opportunities for negotiation. Consider other *viable* options. Even if the goals don't change, flexibility allows a solution to be crafted at the bargaining table.
- ### 4. Be especially mindful of internal equity issues.
- Internal equity is almost always a bigger issue than external comparability, especially when contracts expire at different times. When there is a lack of internal equity, do your best to understand and explain why—for example, changes in financial conditions between contracts or differing working conditions for certain groups. If you're in

the planning stages, consider whether you want all your contracts (or at least all miscellaneous ones) to expire at the same time.

- Consider “me, too” provisions and other confidence builders for early agreements. While disfavored in typical negotiations, they aren’t necessarily a bad practice when major concessions are sought. They may also help the governing body make fair decisions in the future.

5. **Develop and maintain credibility.**

- Set a respectful tone at the table—always true but frequently more challenging when bargaining major changes. Be transparent; don’t say different things to different constituencies. Be the expert; know the subject better than anyone in the room, whether it’s finance or benefits. Check every fact you are given—twice.
- Provide information as soon as you can—and as much as you can. But beware of “rabbit holes.” Some issues, such as actuarial assumptions, can be debated unproductively but endlessly.
- Own the process. Set agendas. Draft language. Produce experts when needed and helpful.
- Never, ever lose your cool. This applies to all bargaining, but the risk of losing your cool is greater when bargaining big change because personal attacks are inevitable.
- Be positive and self-confident. Be sure your goals are well thought out, and be prepared to explain why. Know that you are fair (and show it).

6. **Seek common ground on the facts and consequences.**

- It is very difficult to reach agreement on major changes if the parties don’t agree on the basic facts underlying the proposed change. Try to reach some consensus on the conditions that necessitate change and that change is needed.
- The consequences of failure to reach an agreement should be very clear and specific. For example, have a “Plan B” budget that shows the cuts that will be necessary if no agreement is reached. Consequences shouldn’t be threats, but an inevitable bad outcome for all parties if an agreement isn’t reached.

7. **Keep everyone motivated to reach agreement.**

- Be sure you can demonstrate that an agreement is preferable to impasse.
- Conversely, know what *your* governing body is *really* willing to impose.

8. **Beware of surprises from other sources within the agency.**

- Complex negotiations typically take place in shifting sands. In particular, try to anticipate budget revisions, Comprehensive Annual Financial Report statements, new actuarial information, costly new initiatives (unions sometimes will assert that the funding for such initiatives could have been used to address the problem you are trying to solve), and management raises or special benefits. Remember, good agency heads and politicians are often optimistic in public; their comments can be misconstrued.

9. **Always keep your elected officials informed.**

- Provide updates before every council/board meeting. Be especially careful not to omit issues the unions may raise with elected officials. Give an accurate flavor of the union’s comments at the table. When appropriate, provide talking points.
- Take every opportunity to show the council/board you are fair-minded. Be clear: You are working to present the governing body’s philosophy, not to promote your own views.

10. **Take care of yourself.**

- Bargaining major changes is very hard personally. Typically, you and your colleagues/coworkers and friends will be affected.
- Actively work on keeping your morale up. Always remember *why* your proposals are in the public interest.

Bottom line

Increasingly, local and state governments are recognizing the need to bargain over major changes. Primarily, I’m referring to structural changes such as significant changes in pension, retiree or active employee medical, and other benefits. But it can also mean simply very large economic concessions—in the 10 percent-plus category, for example.

To a certain extent, all the accumulated wisdom about bargaining in any context applies to bargaining major changes: plan ahead, be flexible, develop credibility, be reliable, and so on. But when bargaining over major changes, the usual advice is harder to follow, the organizational strains are greater, and the consequences of mistakes are direr. As Elvis Costello famously wrote, accidents will happen, but missteps when bargaining big change are best avoided.



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