

The Last Days of Bargaining

In the final stages of bargaining, with the contract expiration date approaching, the negotiating committee and elected local leadership must decide how to proceed.

Decide whether to settle

Have you obtained the best agreement that can be obtained without a major confrontation?

Have you negotiated a good contract considering where you started, the needs of your members, the employer's financial condition, and other recent union settlements?

Would a settlement on the terms now available leave in place the most fundamental worker rights, or would it destroy the key elements of union protection such as seniority, the grievance procedure, and limits on management's right to make and interpret policies?

Would the settlement be ratified by a large majority? (If possible, you want to avoid a close vote one way or the other because then you will have a divided group and a weaker union.)

If you refuse to settle now, will the workers be prepared to escalate the campaign? Do you have ways to pressure the employer to agree to a better settlement? Do you have or can you obtain the money you would need to mount an expanded campaign?

If you decide not to settle, decide what to do next

Are you close enough to an agreement that you should ask management to extend the contract or ask workers to work without a contract so bargaining can continue?

Advantages might be that you may avoid an unnecessary confrontation and show members and allies you are willing to go the extra mile to reach a settlement.

Disadvantages might be that you may look weak to the employer and remove any incentive for management to change its position.

Should you put management's last offer to a vote of your members, with no recommendation or a recommendation that they vote no?

You might do this if you were sure the offer would be turned down by a huge majority.

You would never do this just to see what the members are thinking. If it were rejected by a close vote, you would have shown management that you don't have strong support to continue with your campaign. If it were accepted, management would have shown it knew more about what your members wanted than you did. In effect, management would have negotiated the contract directly with the members.

Should you ask members to go on strike or take other strong action?

Only if you believe you could win. If members are prepared, have shown they will support campaign actions, are committed to the issues, and have the ability to seriously disrupt the employer's operations at this time, then a strike or other action may be appropriate.

But a strike should not be called out of desperation or to save face for the negotiating committee. It should be called only when it is in the best interest of the membership.

If you decide to settle, keep as much control of the process as you can

Volunteer to draft the actual language expressing agreements that have been reached. The wording is more likely to be favorable to you if you write it. Don't get carried away, though; if you seem to be deliberately drafting language that is not what was agreed to, you may poison the atmosphere needed for a smooth settlement.

Make sure each side initials written, revised sections of the contract as soon as tentative agreement has been reached on those sections. This makes it less likely that management will try to change its mind.

When you have a complete tentative agreement covering all subjects, make sure you have a signed copy before any announcement is made.

Unless you have specific language in writing and signed, managements have a way of remembering what was agreed to differently than the union team remembers it.

Insist that management agree in writing to drop all lawsuits, NLRB charges, and campaign-related firings or discipline and to reinstate strikers, if any, who have been replaced. Those conditions should be part of the price management must pay for peace. Otherwise, in future campaigns workers will doubt that the union will be able to defend them from management attacks.

Plan what you want to say to members and the news media about the settlement. First impressions that you give people about the new contract are often lasting ones.

Do you want people to look back on these negotiations as a success for the union, even though you didn't get everything you wanted, and as a step toward long-

long-range union goals? If so, your announcement and comments must describe in the simplest possible terms what goals you achieved and how you hope to build on your gains in the future.

In the heat of the moment, members of the negotiating team may be caught up in frustration over what they didn't win and in anger at management. But a negative first impression of the settlement may hurt the chances of a strong ratification vote and may slow organizing to enforce the new contract and build the union for future negotiations.

As always, plan who will speak to the news media and what they will say, rather than having a variety of negotiating team members giving off-the-cuff comments.

Don't let management officials announce the tentative agreement before you do.

They might slant their announcement to make the union look bad.

Try to get management to agree not to comment on the settlement until you have completed ratification. Assuming that both union leaders and management officials want the tentative agreement ratified, you can explain that it is not in management's interest to leak bits and pieces that could affect members' opinions of the settlement.

You can also try to negotiate an agreement with management on a schedule for separate announcements or a joint announcement that a settlement has been reached.

Remember, however, that management may not abide by this agreement and may not confine itself to the wording of a joint announcement. Instead, management may leak its version of the settlement, along with unattributed quotes.

Knowing this, you should not agree to restrict what you will say in addition to the joint announcement.

Another precaution is to make sure that management officials don't leave the negotiating table before you do so they can't get to the news media or the membership first.

If necessary, keep bargaining going while you let your worksite leaders know the approximate shape of the tentative agreement.

A second precaution is to make sure your systems for quickly communicating with members and the news media are well established and tested. You should be ready to quickly hold meetings, print and distribute flyers, and call reporters.