

Improving Competitiveness through More Effective Collective Bargaining

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Today's Topics

- Assessing the Bargaining Relationship
- Understanding the Non-Union Competition
- Enhancing Competitiveness through New Bargaining Strategies – Tactics
- Clauses to Adopt and Avoid
- Bargaining Trends
 - Consolidation of Locals
 - Standardization of CBA Language

The Dichotomy

Union
vs.
Management
?

Operational Considerations, Contrasted

Union

- Fixed terms of employment
- Fixed wages
- Restricted hours of work
- Third party intervention into operations via union spokesperson
- Economic power of union to strike

Non-Union

- Flexible terms of employment
- Merit wages paid on performance
- Flexible work hours
- No third party
- Limited power of employees

Operational Considerations, Contrasted

Union

- Classification of workers with ratios
- Hire/fire regulated
- High benefit costs with legacy liability
- Restrictions on subcontracting
- Cost of collective bargaining and CBA administration

Non-Union

- No classifications
- Hire/fire as see fit
- Limited benefits with cost shared by employees
- Subcontracting at discretion
- No bargaining/limited administration

Preparation for Collective Bargaining

- **Considerations**
 - Company's labor relations goals
 - Current business status
 - Major future work
 - Anticipated business changes – i.e., layoffs/expansions/business plans
 - Current bargaining unit attitudes
 - Operational changes needing to be accommodated through bargaining agreement
 - Day-to-day operational problems needing to be corrected through bargaining agreement terms

Preparation for Collective Bargaining

- Union's degree of presence during the last term of contract
- Grievances/arbitrations/disputes in past
- Amount of daily/weekly overtime presently
- Management's position regarding possibility of strike
- Effectiveness of present work rules
- Business on books with liquidated damages/penalties for non-performance
- Any changes to the collective bargaining unit
 - Annual hours reported

Preparation for Collective Bargaining

- Parity with competition – obtain other bargaining agreements/CSIA bargaining binder
- Anticipated automation of processes/new equipment
- Level of unemployment at hiring hall
- NMA work in progress
- Unfunded vested pension liabilities!

Management's Goals for Bargaining

- Parity with competitors
- Enhanced bargaining techniques to ensure success
- Increased productivity
- Decreased costs
- Operational flexibility

Forms of Negotiations

- Single Employer
 - One contractor bargaining a contract with each union
 - “Me too” agreements – letters of assent A and B
- Coordinated Bargaining
 - Individual contracts negotiated at same time and/or using same spokesperson
 - Benefits of both single and multi-employer
 - Carefully orchestrated

Forms of Negotiations

- Multi-Employer
 - Consensual
 - Assignment of bargaining rights
 - Assignment to administer CBA
 - Association based
 - Ratification of proposal by majority
 - CBA administration
 - Withdrawing the assignment – timing

Assignment of Bargaining Rights

- Pledge to take united and joint action upon group demand
- Agreement not to sign any labor agreement not approved by multi-employer group
- Provisions prohibiting resignation during the term of the labor agreement
- Provisions for enforcement

Scope of CBA and Trends

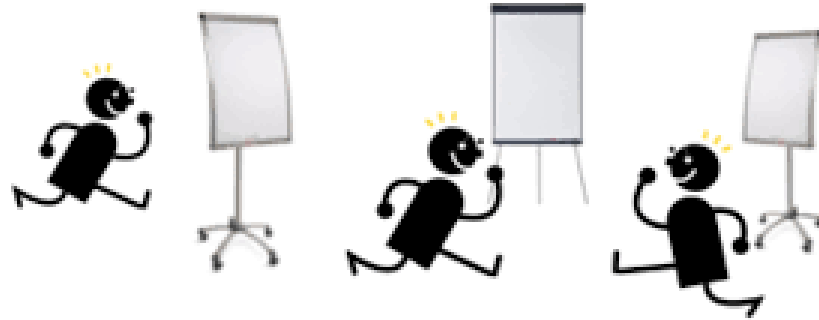
- Local
- State
- Regional
- National

Impacted by Unions

- Consolidating Locals
- Standardizing CBA Language

Composition of Bargaining Team

- Spokesperson
- Minute taker
- Observer



Logistics for Bargaining

- Where/when, etc.
- Who pays?



Items to Address in Collective Bargaining

- Pension
 - Financial status
 - Increased contributions during term
- Health and Welfare
 - Financial status
 - Increased contributions during term

During the term of this Agreement, if the Pension Retirement Plan or Health and Welfare Plan is deemed to require additional contributions, the parties will accept the recommendations of the Trustees of those Plans and any additional contributions shall be funded by allocating or reallocating a portion of the current and/or future wages in an amount sufficient to cover fully any increases in such contributions.

Items to Address

- Market recovery
 - The Union has established a Market Recovery Program in order to regain work that signatory employers have lost to non-union contractors due to disparities in wages, benefits, and working conditions mandated by this Agreement. During the entire term of this Agreement, this Program will afford to signatory employers various market recovery measures on particular jobs, such as modified apprentice ratios, elimination of such things as daily mileage, lower wage rates for any or all classifications covered by the Agreement, reduced overtime payments, subsidizing the modified wage rates designated for the job, and other such measures. The Business Manager will determine the recovery measures.

Items to Address

- Job Targeting

- The Program will be funded through the Union allocating from the dues collected on hours worked by all employees covered by the dues checkoff provisions of this Agreement. The Market Recovery Program will expend in subsidized wages authorized pursuant to this Program no less than 80% of the monies anticipated to be collected in that contract year pursuant to this Article.
- Every three months thereafter, representatives of the Union and the Association shall meet and confer with respect to the operations of this Program, including such things as the jobs targeted for market recovery and the financial status of the Program.

Items to Address

- Portability

- No more than one member-mechanic (job foreman) can work on any one operation of any employer within the jurisdiction of another local union unless there is a shortage of labor in that jurisdiction. The employer is privileged to send a mechanic (job foreman) as outlined above but cannot bring a mechanic (job foreman) into an area where he is already bound by a collective bargaining agreement. Such members must conform to the working rules and trade agreements of the local union under whose jurisdiction they work. They shall receive the wage/benefit rates highest in either of the two locals.
- A “portability form” shall be submitted to the International Vice President, in the conference in which the project is located and the International Union Headquarters, with copies to the Local Union Business Manager, for expanded portability for that project. Upon approval by the Union, the Employers are privileged to send four Journeymen Mechanics on any such project in the jurisdiction of any other local union within the International jurisdiction.

Items to Address

- In “open counties,” the Employer may utilize 100% portability of workers and shall notify the International Vice President of projects that have been awarded. The Employer will describe the project and probable date of commencement and the Local Union having jobsite jurisdiction and his use of 100% portability.

Items to Address

- Sub-Journeymen Classifications
 - Section 1. Classified workers may be employed in the below ratio and the Employer may also use a pre-apprentice instead, as long as the overall workforce ratios of apprentices to classified workers/pre-apprentices remain the same. If an apprentice is not available for referral as per Article XI, the Employer may hire a classified worker that will apply to the ratio as defined by this contract in the same manner as an apprentice would apply; nor will it be mandatory that an unemployed apprentice displace this classified worker once hired:
 - A. One classified worker for any Employer who employs an apprentice;
 - B. Two classified workers for any Employer who employs at least three apprentices;
 - C. Thereafter, the ratio will be one classified worker for each additional three apprentices employed.
 - Section 2. Classified workers may perform any work covered by Article I of which they are capable and will work under the general direction of a journeyman.

Items to Address

- Training at Union's expense
 - Each bargaining unit employee shall successfully complete an OSHA 30-hour training course prior to being eligible to become employed by an Employer. Current employees shall successfully complete the course by 12/31/19. Such training shall be completed on the employee's time.
 - The cost of any materials used in such training, as well as the costs associated with providing instruction, shall be paid for by the Local Joint Apprenticeship and Training Fund.

Items to Address

- Training at Union's expense
 - In order to ensure that the Union refers duly qualified individuals, the parties shall require that each member of the Union receive annual training through a program established by the Joint Apprenticeship and Training Committee in conjunction with the Roofing Contractors Assoc. The annual training to be received by each member shall be 8 hours. Members of the Union not successfully completing the required annual educational program may not utilize the hiring hall, are not eligible for continued employment with the employer, and in no event will receive any incremental increases in compensation accorded through the collective bargaining agreement.

Items to Address

- Substance Abuse Screening on Employee's Time
 - The Passport Drug Testing Program provides advanced substance abuse screening on a Local Union-wide basis for the convenience of the employees and so that there is not a need for duplication in drug screening for bargaining unit employees.
 - All bargaining unit employees are provided the opportunity to voluntarily undergo screening on their own time. Screening is recommended to be done once per year in order for it to be valid and acceptable to potential customers and employers. The cost of these screenings is paid for by the Mechanical Contractors Association.

Items to Address

- Compensation for hours actually worked
- Benefits paid on straight-time hours worked
- The overtime rate shall be paid on the actual hours worked. The amount of overtime and the personnel who work overtime are the prerogatives of the Employer. However, the Employer will endeavor to use employees on that job to perform any overtime on that job.
- Each Employer covered by this Agreement shall contribute to the benefit funds an amount as defined in Appendix A per hour actually worked by each covered employee.

Items to Address

- Make-Up Days
 - If completion of 40 hours of work on a project cannot be achieved during a work week due to the weather or other working conditions beyond the control of the employer, Saturday may be used as a make-up day and hours worked less than 40 during that work week will be paid at the straight-time hourly rate.

Include

- Hiring hall
 - Versus referral hall
 - Rejection of applicants
- The Employer retains the right to reject any employees referred by the Union; however, such rejection shall be based upon workmanship, performance, attendance, and qualifications.

Items to Address

- **Most Favored Nations**
 - The parties to this Agreement hereby agree that should the Union grant wages or terms and conditions in any Agreement more favorable than those contained in this Agreement to any other contractor or employer, then those terms shall apply uniformly to the parties to this Agreement, except that agreements made or requiring Local No. # to be bound thereunder with the Tennessee Valley Authority, the NMA, or any other project agreements, or any other national agreements or targeting programs shall all be excluded from this clause and shall not be considered as conditions involving the most favored nations clause.
 - The Union agrees that should it or its International Union and/or its affiliates suffer, permit, or enter into a contract, agreement, understanding, or condition with any employer or group of employers in the jurisdiction which contract, agreement, understanding, or condition is more favorable to that employer or group of employers than the terms herein set forth, such more favorable terms shall immediately be deemed to have been incorporated into this agreement and applied to employers doing that type or similar work as the employer or group of employers to whom the more favorable terms have been granted, directly or indirectly. The Union agrees to furnish immediately to the employer a copy of any agreement containing any such more favorable conditions.

Include

- Hiring hall, continued
 - Discharge without just cause
 - Key Person call
- The Employer shall have the right to request a minimum number of key employees who may consist of a general foreman and leadman. In addition, the Employer shall have the right to recall from the out-of-work list any journeyman, so long as such journeyman was employed by the Employer within the past 12 months. In addition, the Employer may request in writing from the out-of-work list employees with specific skills, qualifications, and abilities.

Include

- Comprehensive management rights
 - The Employer reserves the right to direct and manage the business and the workforce except to the extent expressly abridged by the specific provisions of this Agreement. These rights include by way of example, but are not limited to, the right to plan, direct, and control operations; to select and determine the number of employees required to perform work; to hire and assign work to employees in accordance and as required to meet employer work schedules and delivery requirements; to establish work hours and work schedules; to hire, discipline, suspend, and terminate, or otherwise take such reasonable measures as may be determined as necessary for the enforcement of the Employer's rules, procedures and policies, including but not limited to attendance rules; to establish, amend, and revise reasonable work rules and to take such measures as necessary for enforcement of such rules, procedures, and policies; to layoff or otherwise relieve employees from duty for lack of work or other legitimate reasons; to enforce workloads and standards for efficient operations; to determine, alter, revise, change, add, or eliminate any or all means, methods, processes, materials, and schedules of work; to determine the products sold and the services performed by the Employer; to issue, amend, and revise safety standards, procedures, and rules; to establish, enforce, amend and revise substance abuse programs including testing; and to introduce new and improved production methods, material, machinery, and equipment. The Employer's failure to exercise any such right shall not be considered a waiver of the right to exercise such right not in conflict with an express provision of this Agreement.

Items to Address

- Industry Fund
 - Each Employer bound by this Agreement shall pay to the Association \$0.10 per hour for each hour worked by each bargaining unit employee. Such payments shall be transmitted with the benefit contribution utilizing the remittance/reporting forms. The funds will be utilized to assist the Association in its operations including industry education and promotion and administration of the collective bargaining relationship for the good of the industry. The Union shall have no involvement in this Association Industry Fund.
 - The Industry Fund shall be used for the betterment of the Industry as determined and administered by the Association and shall not result in a direct financial benefit to any particular individual, firm, or corporation. It shall be used for providing financial support for activities of construction industry management, particularly in the areas of public relations, public education, market development, personnel practices, labor relations, and one-half the cost of printing this labor contract and the expense of meetings.

Include

- Hiring hall, continued
 - Minimum training, experience, longevity
 - Right to hire tradespersons (trainees) from street
 - Indemnification
- Work rules (right to promulgate)

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- Employment Law
- Workers' Compensation
- OSHA
- Wage-Hour
- NLRB
- Discrimination
- Collective Bargaining
- Employment Litigation
- Business Law
- Benefits
- And much more

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