

Bargaining table

Effective real estate lease negotiation strategies **By Brian Zurawski**

Negotiating a real estate lease as a prospective tenant can be a complicated and cumbersome process, depending on the complexity of the real estate and the needs of the landlord and tenant.

Although there are hundreds of issues to address when negotiating a lease, a few simple strategies, if implemented properly, will help to simplify the process and improve your result.

Assemble a strong team

Not all team members will be required in all situations, but consider these key team members.

■ **Real estate broker.** Often the quarterback of the real estate team, this professional's role is to identify and organize any and all options available, thus creating a competitive environment for the negotiation. Typically, the broker is concerned with the economic and business terms, and the physical aspects of the property.

■ **Real estate attorney.** Embracing an attorney who specializes in real estate transactions ensures that the legal agreement will be structured properly.

■ **Architect/engineer/contractor.** If applicable, this team member will be instrumental in confirming the condition of the property and the feasibility of contemplated improvements.

■ **Insurance expert.** This role may be taken an in-house risk manager or an outsourced insurance broker. Regardless, a professional opinion on the insurance coverage required in a lease is crucial.

■ **Incentives consultant.** A third-party incentives consultant provides unbiased guidance relative to any available governmental economic incentives that are available. If the real estate requirement can be tied to job or capital growth or retention for the area, it is possible that significant economic incentives may be available.

Don't make any assumptions when entering into a real estate procurement and nego-

Lease Structure (Net vs. Gross)	Lease Term and Rent Abatement	Improvements to be Performed By Landlord
Rental Rate Structure	Rent Escalations	Improvements to be Performed by Tenant
Termination Rights	Tenant Maintenance Responsibilities	Landlord Maintenance Responsibilities
Lease Security (i.e. Security Deposit)	Assignment/ Subleasing Rights	Operating Expenses and Future Expense Escalations
Contraction Rights	Expansion Rights	Insurance Language
Casualty Language	Indemnification Language	Future Alterations Language
Default and Remedy	Renewal Options	Holdover Provisions

tiation process. Rather, identify your particular needs and attempt to find a solution that can be built around those needs.

Prior to making a commitment to any one real estate option, utilize the broker and the attorney members of your team to identify all the business and legal issues that are most important to you. By identifying and resolving all such issues before any degree of commitment is made to a particular option, the chance of difficult negotiations during the lease document negotiation is mitigated.

A comprehensive request for proposal process can be utilized to compare all options based on the criteria important to you. This initial comparison can then be the basis for subsequent negotiation leading up to the actual lease document negotiation.

(See chart above for issues to consider.)

Unified approach

Elect a single point of contact with the landlord or landlord's representative to handle the majority of the negotiation. The more individuals involved in direct negotiation, the greater the chance that your team sends mixed messages to the landlord.

Because different team members do need to contribute throughout the process, consider a different individual for different phases of the negotiation. For example, your broker may be the key contact during the initial site selection and negotiation, while your

attorney becomes the key contact during the lease document negotiation.

Ask questions

Do not hesitate to ask questions or make requests related to issues that don't make sense to you or are not sensible to your needs. Utilize your team to educate you as to the issues and the options available in response to those issues.

Most important, once your negotiation is complete, create a system to maintain a record of the lease and its associated key clauses and dates. Organizations with numerous locations must consider embracing lease management technology to best maintain this important information.

Remember that the process does not end once the document is signed. Rather, it is the beginning of a significant commitment that must be managed, as with any other corporate asset or liability.

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