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THE IMPORTANCE OF  
**MOMENTUM**

WHEN BUYING AND SELLING A  
SECURITY GUARD COMPANY

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*Maintaining momentum with dialogue and the flow of information is very important to the buyer and seller during negotiations. And the intensity of the momentum indicates the commitment each side has in completing the transaction. A buyer who keeps the momentum throughout the entire process - investing time, money and personnel resources to getting the transaction completed timely is sending the seller a message that the seller's company is important. Keeping the momentum on the seller's part is a way the seller tells the buyer that there's a genuine interest in selling the company, and that the seller's motivated enough for the buyer to make these necessary investments. However, most buyers and sellers are somewhat cautious in how they communicate this eagerness to complete a transaction, because of their concern that in doing so they may lose leverage in the negotiations.*

In order to start and maintain the momentum, both the buyer and the seller have to be committed to the transaction; it cannot be a one-sided effort. As previously stated, each side maintains the momentum in order to show the other side that there's interest, but both parties also maintain the momentum for its own benefit. Usually, there's some time-line necessary to getting the deal closed in order for either side to enjoy the benefits of the transaction.

### **Momentum Is Important to Both Sides**

**From the buyer's perspective**, momentum ensures that the transaction closes, which is very important to the buyer, especially if the seller's company is a vital part of some strategic plan. For example, the buyer may need the company in order to enter a certain vertical account or geographic market, or it may provide an attractive return

on investment. In either case, the longer the transaction takes to close, the longer it takes the buyer to start benefiting from the acquisition.

In addition, the longer a transaction takes to close, the greater the possibility that the seller may decide not to sell. For this reason, the buyer needs to pay particular attention to any process within its organization that may slow down the negotiations.

Because the buyer is usually a very large company, working on several simultaneous assignments, there's the challenge of making sure the due diligence team is ready at the exact time the seller has the information accumulated. Then, there's often the requirement that the deal has to be approved by a board of directors, who may not meet every month or who may delay the process for some reason. On the other hand, the seller usually doesn't have to get approvals from others and can make important decisions on the spot. While the buyer's time-line and pace may be normal; to the seller who's used to making important decisions quickly, the process seems to be taking too long. If the buyer's process starts slowing down or the seller is presented with unpleasant surprises, the seller may start to feel that its company is not important to the buyer, causing the seller to have second thoughts.

If the seller is a privately-held company, as are most in the security guard industry, then it's probably owned by an entrepreneur or group of entrepreneurs, who need to see things happen. Even though they may have at least some patience, the process must always be moving forward. They've built the business by acting and reacting quickly to circumstances that affect the future of the company. This mind-set may cause the seller to decide not to sell if the entrepreneur/seller sees the momentum slow down or stop entirely. A loss of momentum, thus the loss of the opportunity to buy the company, could then prove very costly to the buyer, especially if the company to be purchased was part of the buyer's important strategic plan.

The buyer's momentum in a transaction also enhances the buyer's appeal to potential future sellers. Experienced, successful buyers realize the importance of a good reputation in the acquisition marketplace. When the buyer maintains the momentum necessary to successfully conclude

a deal, the buyer is sending a message to the marketplace that it recognizes the importance of momentum and is looking after a seller's needs in a transaction. This momentum becomes very important to buyers wanting to do a series of acquisitions. Although the security guard market is very large with thousands of companies, word about the buyer's performance in a particular transaction spreads quickly throughout the industry. And buyers who gain the reputation for concluding deals that benefit both the buyer and seller greatly enhance their chances of getting other potential sellers interested in discussions to sell their companies.

**From the seller's perspective**, the momentum is vital to keeping the buyer interested in the deal. In today's marketplace, the buyer prospect will typically be much larger than the seller, a scenario that usually creates a financially sound deal for the seller. However, large companies operate in a structured environment whereby the key personnel must stay productive and keep deals moving. This is especially true for buyers who are pro-active in the acquisition market. If the buyer's due diligence team must wait for information from the seller, or the seller's attorney does not respond promptly to the buyer's attorney on important purchase agreement issues, the buyer's personnel will be assigned to other projects. Then the buyer's team might not be available when the seller is ready to resume the process. If this scenario goes on long enough, frustration starts to set in; the momentum is slowed down, and the negotiations may even stop completely.

The loss of the opportunity to sell the company could prove very costly to the seller, who's now put a "for sale" sign on the company, thereby making the key employees involved in the transaction nervous about their future with the company. Even if the seller tells these key people that they're "back to the business of growing the company", the employees still know that the seller wants to sell.

Terminated negotiations will also probably taint the value of the company for a sale to another buyer in the near future. Any new buyer prospect would be suspicious about the real reason the previous negotiations fell apart, which would be reflected in the new buyer's offering price.

## *Organizing the Process to Maintain Momentum*

Some of the steps in the negotiations require the buyer and/or seller to be pro-active and even sometimes aggressive in dealing with getting information or decisions on important issues from the other side.

The buyer and seller are usually concerned that any eagerness they display could cause them to lose negotiating leverage in the transaction – and rightly so. This perception is mitigated somewhat if an investment banker or transaction manager (specialized industry broker) is representing either side. The transaction manager firm usually gets most of its compensation only when the transaction actually closes. With a large time and financial investment in the negotiations, the transaction manager has a strong incentive to make sure the transaction makes it to closing. Therefore, the transaction manager will make every effort to keep the negotiations moving at a pace as intense as the parties will allow.

Even though the transaction manager firm is representing only one side in the transaction, both sides perceive its aggression as somewhat self-serving, thereby preserving either or both sides' leverage in the negotiations. Each party will need to determine the step or steps best handled by the transaction manager. Some parties prefer most or all of the steps to be handled by the transaction manager, whereas other buyers and/or sellers prefer to deal directly with each other on some steps. Whatever the decision as to who is best to handle the steps, the following are some important steps in organizing the process and making sure the momentum is maintained:

- The buyer and seller should each assign a “point person” to manage the activities for their respective side. This “point person” may be someone within the organization or an outsider, such as the investment banker or transaction manager or a combination of both, depending on the particular task. Whoever is chosen, it's very important that this point person is not distracted by other activities and can dedicate the time to properly manage the activities of the deal and keep the momentum going. If this person has more important or urgent responsibilities, then another point person should be assigned to the transaction. The point person has responsibility

to make sure the time lines are met and to stay in constant contact with the decision makers so there's no slow down in the momentum. The point person will be aware of the importance of the acquisition for its employer or client and will ensure that the process moves forward.

- At the start of the negotiations, each team member should receive contact information for all the personnel assigned to the transaction - on both the buyer's and seller's side - so each member can get needed information or have questions answered quickly. This list should include all the contact numbers and addresses, including cell phone numbers and home phone numbers. Also included are names and numbers for assistants who have access to the person, when he/she is not taking calls from the general population.

- At the beginning of the negotiations, each side should MEET with its respective attorneys, tax advisors, point person, and transaction manager to reinforce the reasons for doing the transaction, and - just as important - the consequences should the deal not close. In other words, this very important meeting will assign responsibility for the transaction not happening. They should also agree on the level of risk they're willing to take in the letter of intent and purchase agreement provisions. Agreeing on these potential issues beforehand keeps the parties from getting side-tracked on insignificant matters and will save a lot of negotiating time during the later stages of the deal.

- Arrange frequent conference calls between all the team members to make sure someone is not waiting for information needed to get to the next step. The conference calls don't have to be lengthy and should not be delayed because some of the members might not be available. The transaction manager should distribute notes on the conference call immediately afterward so any members not able to participate will know what transpired. Also, a professional transaction management firm with up-to-date technology will have leased conference call lines that allow people to call in, toll-free, from any location. This maximizes the probability that all the members will be able to participate in the call.

- The transaction manager should frequently contact the decision makers for its client, as well

as the other side to find out if there are any concerns that can't be handled in an open forum environment and that are causing the process to stall. As the one supposedly neutral in the transaction, the transaction manager is the most logical person to handle these sensitive issues involving personalities.

- Send status reports and "to do" items through group e-mails to everyone involved, which is a good way to communicate with each side's team members simultaneously. But the transaction manager should not rely solely on e-mails in making sure everyone gets the message. E-mails get inadvertently deleted and often get lost in the myriad of junk mail we all now receive everyday. If the transaction manager does not see the response being made to the "to do list" in the e-mail, the transaction manager should start contacting the parties by phone - quickly.

- The seller should start accumulating the due diligence information BEFORE any buyer prospects are contacted. This process usually takes several weeks, but it can take much longer if the seller has only a limited number of people involved in accumulating the material. If the seller is a small company, the owner will sometimes try to accumulate all the information by

him/herself, to preserve the confidentiality of the proposed transaction. The key personnel, who might help the owner accumulate the information, may not be informed until the negotiations with a particular buyer prospect reach a point of almost certainty. In this case, the seller should start accumulating materials as soon as possible.

- The seller should ask for a copy of the buyer's standard purchase contract. Most buyers who are pro-active in acquisitions work from a standard contract modified to fit the unique circumstances of the deal at hand. However, knowing in advance what the buyer will expect in the way of indemnifications and other important provisions will help the parties prepare for the time-consuming later-stage purchase contract negotiations.

Regardless of the seller's or buyer's need or desire for a quick deal, momentum in the acquisition process should be about moving through each stage of the negotiations in an orderly fashion balancing the needs of both parties. And not so fast as to cause mistakes that may later prove costly to either side.

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