
CONSTRUCTION PRODUCTION NEGOTIATION

Teaching Note

This simulation presents as distributive but really has strong integrative components: many opportunities for the parties to maximize value. If, and only if, the parties exchange information about their priorities, and what terms will have more or less value, they will reach better agreements for both.

The negotiation is over terms – price, timing, scope, etc. – of a possible contract for the creation of a promotional video. Pardes Productions is a video production company, recently purchased by its current owner (from a college classmate). Shane Construction employs 40 people, including tradesmen, managers, engineers, and designers. Shane offers clients the full range of services and sources needed to design, engineer, build, finish, and furnish a high-end home or small commercial building.

Pardes is in tough financial straits because a major customer went bankrupt without paying the \$50,000 receivable. Pardes can produce a video in a short time frame (before July 4) but would prefer mid-July. Because one of Pardes' employees has a background in drama and script writing, Pardes can generate high-quality script prompts, etc.

On the \$, if absolutely necessary, Pardes would do the job for as little as \$7,000 – with a mid-July to early August deadline. Pardes wants to get at least \$10,000 - \$15,000 and would like to earn as much as possible. Pardes knows they have a few local competitors but believes “their people are young and tend toward kitsch or New Age” and can't match the Pardes scriptwriter's or videographer's talents. Pardes believes local competitors would charge \$20,000 - \$25,000 for this type of job and out-of-town companies might charge \$35,000 - \$40,000 or more.

Shane Construction also recently suffered disappointment and financial loss in its efforts to create a promotional video. They had agreed to pay another video company \$25,000 and made a \$10,000 deposit. However, Shane's CEO was so dissatisfied with the first cut sent for review, that they terminated the contract. However, they cannot retrieve the \$10,000 deposit. Because cash is now very tight, Shane would prefer to pay *less than* \$10,000 to Pardes but could swing the additional \$15,000 if necessary. Shane would have to draw any more from its line of credit, which is currently maxed out. Based upon current receivables, Shane believes up to \$20,000 will eventually be available on the line of credit, but after September 1.

The timing preferences are tricky (diabolical if I do say so).

- Shane takes the highest value from the video if it's finished by the Homerama, which begins on July 4 and runs through August 30.

- Even a mid-July to early August delivery would have value, as Shane would send video links as a follow-up to people who visited its Homerama displays.
- After August 30, its value goes down. Of course, that's when Shane would have access to more \$ on their line of credit.

Shane's inquiries to other video production companies haven't yielded any favorable BATNAs; either they couldn't meet the deadlines or seemed untrustworthy. They did let Shane know that videos of this type could cost \$20,000 - \$50,000. Shane knows out-of-town companies would charge more.

Related to possible "creative options" are the following tidbits:

- Pardes would benefit from renovations and construction on its property to avoid rental costs for additional studio space and to rent out part of it, improving cash flow. The catch-22 is that Pardes can't afford to pay for that now. Shane is a construction company. Could they do the renovations as part of the agreement? Without charge or at a discount?
- In fact, the current Shane urban development project is being delayed due to last-minute neighborhood objections. This means Shane has substantial money tied up. It also means that Shane's salaried construction tradesman and designer are not fully occupied because they had been scheduled to work on the urban project.
- The video holds the most value for Shane if it's done by July 4, and considerable value by mid-July to early August. Pardes' key employee (excellent script writer) could certainly complete it by mid-July. Pardes may even be able to meet the July 4 deadline – that's a bit fuzzy, but it seems they could.
- For Pardes to realize that extra value, Shane could offer to do the construction project on the Pardes property, while paying lower up front \$.
- Shane would highly value a video with more scripted airtime for staff describing their work and stories of challenging jobs with successful outcomes, as well as customers explaining the benefits of working with Shane.
- Pardes has the capacity to create exactly such a video. This would enable Pardes to use the talents and time of its employees with the most experience and talent in scriptwriting.
- Because of its recent negative experience, Shane values, indeed, it would insist upon an early review of Pardes' plan for script, content, music, and graphics. Shane does not want to pay much at all until Pardes' production appears to be

on the right track. Pardes is confident of the higher quality of its work and should be willing to agree to that. This assurance might make Pardes more willing to offer more value, whether in cash or construction work.

- Pardes' now bankrupt customer left it with a yard full of children's tree houses and outdoor play equipment, which had been delivered to a filming location. It's been disassembled and is now in cheap storage. Might Shane Construction have use for that? Perhaps for its homebuilding customers? Could Shane offer to buy the equipment, after its cash crunch and line of credit ease?

If the negotiators exchange information, they will find these opportunities. If not, they won't. The post-negotiation discussion should move quickly to this information and the various options. What would be more beneficial: the straight cash deal or one that finds value in the parties' different and complementary interests, capacities, and priorities?

To increase the likelihood that they exchange information and find mutually beneficial options, I suggest allowing 40 minutes or more to negotiate. If (really when) a pair finishes very early with a main cash deal, suggest they keep negotiating to find ways to improve the deal for both. After the second attempt (and for groups who finish just a little bit early), suggest that they exchange full information. Then ask them to consider what terms might be added or changed, now that they both know each other's interests, priorities, capacities, and constraints.