

Human Resource Associates

Employment Consultants

Small Business Survival Guide for Tough Times

Part II —Your People

In part I of our survival guide we focused on the company issues we face in tough times. In this, part II, we will focus on the people issues.

“I thought hiring good people was tough” an owner told me. “But letting them go is a hell of a lot tougher” he added. When facing tough economic times, most companies know that cutting their largest cost is the first thing they will look at. So people, particularly high cost people, are the first target.

But do you really see your people as a cost? And are your highest paid people truly your highest cost people? You have often heard the phrase “If you see yourself as a hammer, you see everyone else as a nail”. So too, “If you see your employees as a cost, you will see that you need to minimize them. But if see your employees as assets, you will see that you want to maximize and invest in them. That means nurturing; protecting and developing them and when you have to lose any of them you do it very carefully.

Remember all those things we’ve been saying about our people? That they are our greatest asset, our most important resource and that it’s our dedicated staff of professionals who make the difference between our company and all the rest and that they make us what we are. These are the times those statements will be tested. How you handle layoffs will define who you are, and who you will be in the future.

I. Downsizing

Laying off employees may be necessary, but proceed with open eyes and understand the downside of downsizing. For one example, the increase in your unemployment compensation premiums next year will be a nasty reminder. A recent survey by Leadership I.Q. of over 4,000 lay-off *survivors* reflected some of the other concerns we should consider:

- 74 % reported a decline in productivity
- 69 % said the company’s products or services declined in quality
- 87% they were less likely to recommend their company to others
- 77% said they saw more errors and mistakes being made

- 61% said they were less optimistic about the company's futures.

The morale of the survivors becomes a new problem and often the company's reputation suffers. There are three additional things to remember:

1. Remember the high cost and time consuming difficulties of recruiting these people that you may have to endure again. Also consider the training and the lag time between hiring someone and their becoming fully productive.
2. Remember that successful companies who were better prepared for these tough times are looking for good employees to attract now.
3. Remember all those news reports and stories you heard about employee law suits and discrimination charges? They were all true.

So before we make that move let's consider some alternatives.

II. Alternatives to lay-offs

Our goal is not to lay off people. Our goal is to cut costs. So let's start by identifying the actual dollar amount we are trying to cut. Some of that surely must be cut from other areas as we discussed in part I. What is the amount that must come from cutting employees costs? And are there other ways to cut those cost besides lay-offs?

Cut hours-If you're seeking a 10% cut, can you reschedule the work and the people for 30 or 35 hours per week? But note; if you're cutting exempt (salaried) workers, it's best to cut a full week at a time to safeguard their exempt status.

Job sharing- Can two or more employees be scheduled to work a total of 40 hours between them? And can they work out the scheduling themselves?

Temporary close down-Close down one or two days each week, or possibly for one week each month.

Pay cuts-When given the choice, employees often choose to have a general pay cut for all rather than to layoff anyone. But again, note; if you cut exempt's below \$455.00 per week, you may lose their exempt status.

Ask for volunteers- some employees may elect to take a 4-month leave-of-absence. Some may want to spend a semester back in school.

4-day work week-Many companies are permanently scheduling employees for a 4-day work week. Many states are shifting to this for all state employees. It can mean fewer hours per pay period or a savings in office operating costs.

Reduce benefit premiums-given a choice between no work and fewer hours many employees would prefer a higher premium or lesser benefit.

III. Handling the lay-off

If, after all considerations you still must make some reductions in force, plan it out ahead of time.

A First let's define our terms:

- **Termination:**
Cessation of employment for any reason
- **Furlough:**
Cessation of employment for a specific time such as 30 days, 90 days or 180 days
- **Lay-off:**
Cessation of employment for an indefinite period of time but with the intention of calling the employee back
- **Termination for Cause:**
Cessation of employment due to bad performance or behavior
- **Job Abolishment:**
Cessation of a particular job which normally includes the person in it. A

job abolishment assumes no fault with the employee, but instead, that the job is no longer needed or that the company is making cutbacks for economic purposes.

Decide which action you are taking before proceeding. If at all possible, do all the cuts at one time. The gradual bleeding and never knowing when the ax will fall method can drain everyone.

B Who gets picked?

The eternal question is, “Do I make my decisions with my heart or my head? If you’re a poet make them with your heart. For almost everyone else, make the decision with your head and apply that decision with your heart.

Document your reasons for doing the layoffs and for choosing these particular people. Write all this down. Whoever challenges your actions will demand to see these documents. You should identify the economic reasons for needing to cut costs, what other actions you have taken to do so, and what, if any, alternatives to the layoffs you tried. Then, identify why you chose these particular jobs and people. How will you choose who will go?

Seniority: It’s the easiest to justify, everyone understands it and it avoids most discrimination charges. But you often lose some very good performers.

Highest paid: It means fewer people will have to go, but higher paid people are higher paid for a reason, they usually are the best performers and they have the types of jobs that *can do more* for the company than lower paid jobs . They’re also the hardest to replace. You may need these people to keep the company going and to prepare for the tough competition

you know is coming when the turn-around comes.

Performance Rated: This is the most recommended selection method. We have been encouraging top performance to our employees for a long time. This is where the rubber meets the road, when we have to “walk the talk”. This is the reason they listened! In addition, this may be the deciding factor about the company surviving and thriving later.

Team input: Call the whole team or company together and frankly and honestly communicate the issue, give them the numbers and ask them for ideas. Let them know that their input will be considered along with all the other alternatives. You may use different methods/reasons for each job. But the ultimate decision should be made by management even if it is based on team recommendations.

C How, when and to whom do I communicate this?

Once the decision has been made about which jobs and which people how do you communicate all this?

All Employees: If the employees have not been part of the process so far, let them all know now. Let them know the problems you are facing and the actions you will be taking. Let them know that you will keep them informed. Do not identify which jobs or people will be cut at this time.

The Supervisor: Then bring in the supervisor if you haven’t already done so. His/her recommendations can be considered but the final decisions are made by the company.

The Employee: With the supervisor. Be respectful and supportive in communicating this to the employee. This is not the enemy. This is very much about using your heart. Even in view of all this, remember, the decision has been made!

This is not a negotiation. All the details should have been considered at this point. Do not let this turn into a long discussion or argument. If you are going to offer a severance or any other benefit, know in advance what it is. If you are going to ask for a signed release from liabilities etc. have the form ready. But consider this, the number of lawsuits and charges are initiated less by employees who have been mistreated and more by those who *feel* that they have been mistreated whether they were or not. In most cases it's best to give employees advance notice before the cut-off date. It's not always possible or practical but best in most cases. Do not escort the employee off the premises under guard. That's just asking for it.

D Some legal considerations

There number of EEO charges and lawsuits are growing fast during this downsizing time. New employee protection laws are being introduced every month and old laws are being rewritten. Here are a few basics:

1 Base all your termination decisions on business issues, not personal feelings or for any illegal reasons. Write down the reasons for each decision. Be prepared to show documents that support each decision.

2. After you have made the cutback decisions, including the severances packages, benefits etc. examine them against your company employee list. Are you laying off mostly minorities, females, veterans, aged (over 40), handicapped or any of the protected classes? Or are you favoring one group of employees over another? If so, it may be considered "Disparate Treatment". Basically it means that even if you did not intend to discriminate against a protected class, if the end result of your actions adversely

affects a protected class you may be guilty of discrimination.

3. WARN act. If you have 100 or more employees and are terminating or laying off 50 of them during a 30-day period, you are required to notify specific community and government officials in advance.

4. Benefits. Under new laws still being finalized, if you have 20 or more employees and provide them with health care benefits, you may have to pay up to 65% of their health care premium in addition to your share of the premium under certain circumstances. You will be allowed to apply those payments against a tax credit later.

We will cover more on the legal issues and steps to consider in employee support in our next issue. If you would like to provide your employees with a survival guide designed for them, it is also available on this HR University website under the title "Employee's Survival Guide for Tough Times".

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