



# SALARY NEGOTIATION

## Career Skills Handout Series

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Many job applicants who are otherwise confident and articulate are thrown off their stride when a job application progresses to salary negotiation. Whether the employer introduces the question of salary after making you an offer or asks your salary requirements before deciding to make an offer, you won't be flummoxed if you anticipate the salary question and prepare a well-supported response. Salary negotiation is a tricky dance. Don't complicate it further by negotiating extemporaneously. Be at your best advantage by adopting a winning approach: conduct sound research, marshal your data, and prepare persuasive arguments.

When an employer asks for your salary requirements, set a positive foundation for the discussion: "I want to work for you, and, if you decide I am the candidate you would like to hire, I am confident we can come to terms on salary. I am simply looking for market rate; I am not looking to be paid a premium." Conventional wisdom is that the first person to suggest a salary figure loses.

You need an informed idea of what the employer is willing to pay. At a firm big enough to hire regularly, or at a small one that you know hired an attorney at your level in the last year or so, you might ask, "You must have a salary structure in mind for attorneys. May I ask what figure you are comfortable with?" If instead you just toss out a salary figure that is substantially above what the employer is willing to pay, you risk having your job offer withdrawn, or—if you were discussing salary before a job offer—being summarily eliminated from consideration. At the other end of the continuum, if you propose a salary that is substantially below the employer's range, you can undermine your candidacy, by prompting the employer to question whether your talents are commensurate with what the employer expects.

To artfully handle salary negotiation, you must have evidence of the market rate. You need data. What do comparable employers pay, based on the kind of position and the credentials they require? To find such data, be resourceful. The Career Development Office conducts an annual salary survey of the class most recently graduated. Average salaries are reported in terms of practice settings (academic, business, judicial clerk, government, military, public interest, private firms) and, in the case of private firms, number of attorneys. As you can imagine, on average, the biggest firms pay the most, and the smallest firms pay the least. You can find useful salary data on the Internet. Robert Half Legal, a legal placement firm ([www.roberthalflegal.com](http://www.roberthalflegal.com)), publishes an annual salary guide, available online, in which salary data are broken out by size of firm and attorneys' years of practice, including entry-level. Robert Half reports national averages and provides regional variance formulas for major metropolitan areas, so users can adjust for regional differences. Salary.com is one of many other sites that provide salary data sortable by job title and city/state. Salary.com's salary figures for attorneys tend to skew high.

No one data point is determinative of market rate. Refine your understanding of the applicable market rate by aggregating the data you collect, including reported salaries for comparable attorney positions. The salary schedules for government lawyers, for example, are matters of public record. You can find the salaries for district attorneys (levels I, II, III, etc.), public defenders, and other government lawyers, then adjust upward or downward depending on whether the applicant pools for those positions and the skills and experience required are comparable for the position you're seeking. If the employer hires strictly from the ranks of law review members or Order of the Coif graduates, the market rate for the position is higher. If the firm hires with little regard for class standing, the market rate is lower.

When you are negotiating salary, be prepared to share your research with the employer. You can say, "My law school reports that the average salary for a [preceding year] graduate who goes to work in a firm of [a certain number of lawyers] is [so-and-so thousands of dollars] annually." And, according to the salary guide of Robert Half Legal, which is an established expert on compensation levels in the legal field, the market rate for this kind of position ranges from [X to Y]." And, "On its website, in [your jurisdiction] the district attorney reports that the pay for [corresponding experience-level] deputy district attorneys is [a figure that meets or exceeds the market rate you are trying to establish for the position you're seeking]." Take copies of your favorable salary data to your negotiation session, and be prepared to hand over your data.

As a practical matter, when you are trying to ascertain the salary range contemplated by an employer for which you have scant information, there are objective factors to take into account. Is the firm located in a high-rise in the heart of the business district, a converted house in mid-town, or a storefront in a strip mall? Are its clients wealthy corporations or low- and moderate-income individuals? Such factors are clues. To the extent an employer is affluent, its salary structure tends to be higher. When an employer's resources are modest, its salary structure tends to be modest.

Typically employers who make you an offer subject to salary negotiation expect to negotiate in person. In-person is optimal, because between 60 and 70 percent of meaning is derived from nonverbal communication. You want to see how the employer reacts to your discussion. When, however, an employer is firm that you should submit your salary requirements via email, you must do so *artfully*.

Whether orally or via email, don't negotiate salary as if you're in an impersonal, completely arm's length business transaction for widgets. Instead think of it as a negotiation between would-be close colleagues and allies—you're looking to join the employer's work family.

Your salary negotiation should be four parts "thank you" for every one part "this is the market rate." For example, you might say (or—if compelled—write), "Thank you so much for your offer. I know working with you will be such a wonderful experience. I really appreciate the confidence you have shown in me. Yours is the job I really wanted; it offers all the essential qualities I have been looking for in an attorney position. I hope you will agree that the salary data I have provided fairly indicates that the market rate for the position is [in the so-and-so range], depending on benefits."

One factor that is not evidence of the market rate is your economic need. When you argue that the employer needs to increase its salary offer because you have a tremendous debt burden, your rationale is worse than futile. When seeking to get the employer to increase its salary offer, your argument must speak to the employer's business interests—its need to offer market rate to attract applicants that meet its standards.

Think of market rate as a range—high, middle, and low. If the first salary the firm proffers is in the high range, you may want simply to accept, as you may have no evidence that it is below market rate. If the proffer is at the middle or low range, and the firm seems amenable to negotiating, you can make your best argument that the circumstances, including your credentials, suggest that the market rate for the position is at the higher end of the range. If the proffer is below the fair market range for the job, you have every incentive to counteroffer, using your well-supported arguments.

Rather than stating a salary figure as though it alone will determine whether you accept an employment offer, you can give yourself wiggle room by folding benefits and perquisites (subjective benefits) into your counteroffer. For example, you can say, "My research suggests that the market rate for this position is between the high 60s to low 70s, depending on benefits." By "benefits," you need to take into account more than just health and dental plans. Consider any retirement plan, whether the employer has a system of annual bonuses, merit increases tied to performance reviews, and whether the employer pays bar dues, costs of continuing legal education, parking, relocation expenses, etc. A good benefits package is worth 25 percent or so of your salary. Generally employers say they offer excellent benefits, and all offer benefits and perquisites in some sense. When you cast these benefits as important, you give yourself a graceful means to backtrack if the employer fully or partially rejects your counteroffer. Even when your counteroffer is rejected, you can snatch a measure of victory by declaring that you are happy to accept the offer given the salary *and* the benefits.

Let's consider a special problem sometimes posed concerning salary: job announcements that state applicants must provide salary requirements in order to be considered. It's a problem because often you will have little idea what the employer wants to pay, and because risk inheres whether or not you provide a salary figure. If you specify a salary that is not substantially within the firm's range, you will be summarily screened out. The job announcement's admonition notwithstanding, you may decide the lesser risk is not to provide a specific salary figure and say simply, "My salary requirement is market rate. I am not looking to be paid a premium."

Employers want their attorneys to demonstrate the utmost professionalism and skill. When an employer wants to talk salary, don't be reticent. Step up and negotiate, and demonstrate you are the kind of negotiator and attorney the employer wants on its side.



# SALARY HISTORY

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Some job applications will ask that you provide a salary history; however, there is no set format for providing such information. Generally, this information is provided in your cover letter or on a separate page (not as part of your resume).

If you choose to include a separate Salary History document (as opposed to including the information in your cover letter), follow the same general format as your resume to provide your annual salary by listing your title, employer and dates of employment in reverse chronological order. Be sure to include any bonuses and benefits such as insurance benefits, retirement and savings plans, or travel/auto allowances, if applicable.

Here is an example:

[Header here—just like on resume]

### SALARY HISTORY

*Associate*

**Lawyer, Lawyer and Lawyer, Inc., Sacramento, CA**

June 2011 - Present

**Annual Salary:** \$85K, plus max 20% bonus, full medical benefits, insurance, 401(k) matching to \$5K

*Hostess*

**Eating Well Diner, Sacramento, CA**

January 2009 – November 2011

**Annual Salary:** \$25,000