

# Great Gads

## There are Multiple Offers.

**Handling multiple offers can be a juggling act. But with skill you can avoid dropping any balls.**

*By Niel Thomas*

At yesterday's open house, you wrote a good offer from apparently well-qualified buyers. Your sellers are due back in town today, and you hope you can put the deal together by nightfall.

Not so fast ... You get back to your office and find that you have a voice mail message from Lily, a salesperson from another company, saying that she wrote an offer for the same property last night for different buyers. In the next moment, one of your fellow salespeople, Gus, drops by your office to tell you that he has an appointment to write an offer for yet a third buyer. Now what?

### **Your Role Depends on Your Role, If You Get the Point**

If you're the listing salesperson and there are multiple offers, begin by consulting with your broker to make sure you're complying with your company policies. Also, your broker won't be caught by surprise if Lily and Gus call to ask what you're up to.

Next, call the sellers, who must consent to the procedures you're about to set in motion. (This is also a good time to get them thinking about the criteria they'll use to decide which offer best meets their needs.) When you speak to the other parties, make it clear that the messages you convey are coming from the sellers. That way, you minimize the risk of being accused of unprofessional conduct.

Now you need to talk to Lily and Gus and the buyers whose offer you wrote yesterday. Because Lily doesn't work at the same office as you and the other salesperson, she's the most likely to wonder whether she and the buyers she's working with will be treated fairly. To her, you might say, "Lily, I'm calling to let you know that there's more than one offer on the property. We have a procedure to handle this situation, because we want all salespeople and buyers to know that there's a level playing field.

"One of the offers comes from a buyer I met at an open house yesterday. A second offer is from a salesperson with my office. The sellers have given that salesperson permission to represent the buyers, and thus our company has assumed the role of a disclosed dual agent. The sellers have decided to hear each offer beginning at 7:00 P.M. Neither the sellers nor I will review any of the

offers until then.

"I'll be there, and you and the other salesperson will present your offers separately. We're asking that all buyers make their best offer, since the sellers plan to respond to the best offer and negotiate with only that party. They'll turn to the others if they can't complete the negotiations with the first buyers. Do you have any questions? If not, good luck."

Call or meet with Gus and tell him the same thing. This may seem like a more formal discussion than you're accustomed to with a salesperson in your office, but it's important to treat each salesperson the same way.

(If you're working with institutional sellers, be sure to ask about their procedure for multiple offers. If an institution has no procedures, ask salespeople to have buyers submit their best offer in a sealed envelope. That minimizes the risk that you'll be accused of taking other offers into account when you wrote an in-house offer. A sealed offer may also be the answer if a salesperson can't or doesn't want to personally present an offer.)

### **Back to the Buyers You Know and Love**

Now it's time to talk to the buyers whose offer you wrote. Remembering that everyone should get the same treatment, you might say, "Things have changed since we met yesterday. I've just learned that there will be two other offers for the seller to consider tonight. It's important that all parties know they're being treated fairly. That means all are being told the same thing and will have an equal opportunity to have their offer fairly considered.

"I know you might have preferred to have your offer considered without feeling that you had to compete for the property. So you can withdraw your offer if you wish. On the other hand, two other offers might reinforce your opinion that this is a good property that's competitively priced.

"If you'd like your offer to be considered, you may want to think about whether it's the best offer you're prepared to make. Now isn't the time to hold anything back, since the seller will pick the best offer and negotiate with only one buyer at a time."

### **Sellers, Start Your Decision-Making**

Sometimes the real work begins when all the offers are on the table. You'll probably see more quickly than the sellers that there are more factors to consider than price. To set the stage, you might say, "Let's consider each offer as a whole. Price might turn out to be the deciding factor, but we're searching for the offer that best meets all your needs. If no offer is fully acceptable, you might want to base your choice on which stands the best chance of being satisfactorily improved."

Begin with the sellers' net sheet and compare the bottom line cash value of each offer. Don't forget to consider the holding costs if the closing dates differ. An all-cash offer with no contingencies that closes quickly (if the sellers want a rapid closing) could easily beat out an offer that's only marginally better in price.

Also consider the form of financing and the buyers' stage of loan processing. Are the buyers pre-qualified, or does the offer come with a commitment letter? Does their lender process loans reliably and promptly? Can the forms of financing that the buyers propose be distinguished? Some lenders and investors may have more strict property condition standards than others in your market. Is that a concern? Will the availability of mortgage insurance be a factor? What about other contingencies?

Once you understand what distinguishes the offers, ask which might easily be improved. Recommend that the sellers choose those buyers to negotiate with first. Once the sellers choose, draft a counteroffer, and be sure it has a clear deadline by which the buyers must respond.

After you've finished with the sellers, you'll need to talk to the salespeople working with the buyers whose offers aren't being countered. You might say, "I'm calling to let you know that the sellers have decided to respond to another offer. They've made a counteroffer and asked the buyers to give them an answer by noon tomorrow.

"We can't predict whether this will lead to a contract. So we'd like to ask that you keep your offer on the table at least until then. If the negotiations go past noon, I'll let you know and ask again whether you want to keep your offer alive." If the offers that the sellers aren't responding to have an expiration date that conflicts with that deadline, you'll need to have the buyers amend the offer in writing to keep it on the table.

Finally, present the counteroffer to the buyers or the salesperson of the buyers whose offer the sellers selected. Let them know that the sellers have asked the other buyers to stay in the picture. That way, it's clear that the buyers must seriously move toward completing negotiations promptly.

If you can't put the deal together with the buyers the sellers chose first, meet with the sellers again and apply the same criteria so that they can choose the next best offer. Keep the remaining buyers in the picture if possible and continue negotiations until you have a contract.

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## **SIX ANSWERS TO SIX COMMON QUESTIONS**

1. Are there legal considerations with multiple offers? In all states, you're obligated to treat buyers and sellers fairly and honestly.

2. Now do you avoid having more than one accepted offer? Have the sellers respond to only one offer at a time. If negotiations don't result in a contract, they should turn to the next best offer,

3. Should all salespeople present their offers at once? Yes. Set up a time for the sellers to consider offers. Have each salesperson make a presentation while you're present. If you, too, have an offer from a buyer, present it directly to the sellers.

4. What about agency conflicts? Your company needs permission in advance from the sellers to act as a disclosed dual agent. Buyers must also consent.

S. How do I avoid an auction mentality? Make it clear that all buyers get one chance to make their best offer. Having the sellers choose the best of the offers is nothing like an auction.

6. What if co-brokers complain that they're at a disadvantage because of offers prepared by salespeople from the listing salesperson's office? Understandable procedures and communication through every step of the process go a long way toward maintaining harmony between the salespeople.

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## **FOR SELLING SALESPEOPLE AND BUYERS' AGENTS**

If you're working with buyers, prepare them for a multiple offer scenario when they start to shop. You might say, "Sometimes just on the day you decide that a particular home is right for you, somebody else makes an offer on the same property. If that happens, I'll do my best to work with you so that you have every chance to obtain the property."

If you're a buyers' agent or a disclosed dual agent, you can do several things to ensure that buyers make the best possible case to the sellers. Beyond price, consider:

- The cover letter--Even if you're presenting the offer in person, prepare a cover letter that reminds the sellers of the offer's strengths. For instance, if there are no contingencies, be sure to say so. Or, if the buyers can close on a schedule that suits the sellers, point that out.
- Financing--Tell the sellers the advantages of the financing, such as lower closing costs, more rapid processing, or less strict property condition standards. Also, if possible, get a preapproval letter from the buyers' lender.
- The time of acceptance--You might also suggest that the buyers request that the offer be accepted on presentation, which lets the sellers know that the buyers expect to complete negotiations promptly and aren't interested in having their offer shopped around. But if the buyers decide to do that, be sure they're readily available. It might be smart to be able to say, "The buyers are in my car. We can wait for your response and reply immediately to any counteroffer."
- Earnest money--Suggest that the buyers offer an eye-catching amount of earnest money; a large deposit often impresses sellers.

No offer is likely to be fully acceptable as written. So you might ask for the authority to negotiate on the buyers' behalf after you've presented the offer. With such approval, you can suggest alternatives that the buyers have authorized you to convey.

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### **GIVE THE PARTIES THE SCOOP ON YOUR PLAN**

To make sure all the salespeople and buyers understand your procedure for handling multiple offers, explain that

- You have a procedure designed to treat everyone fairly.
- Each salesperson will know the source but not the content of the other offers (in other words, from which office the offer comes but not the price and terms) and that you'll keep each salesperson informed at all stages of the process.
- All buyers will have the opportunity to have their best offer considered.
- The sellers will negotiate with only one buyer at a time.