

## Project Negotiations – Deal Yourself a Winning Hand

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### Abstract

Do you have clients who constantly ask for minor extras at no additional cost? Do you have problems getting the right resources for your projects? Do your team members consistently miss schedule dates or exceed budgets? Maybe the problem is that you are not an effective negotiator! Most experienced Project Managers typically have good “hard skills,” such as the ability to define scope, budget or schedule, but come up short in the “soft skills” areas such as negotiating.

In his song “The Gambler,” Kenny Rogers says “if you’re gonna play the game...ya gotta learn to play it right. You got to know when to hold ‘em, know when to fold ‘em, know when to walk away and know when to run.” His song could be re-titled “The Project Negotiator” because the lyrics exactly describe project negotiation situations that Project Managers constantly encounter.

In addition to describing a recommended procedure to follow for preparing and conducting a negotiation, this paper presents a list of the top 10 mistakes made in negotiations, as well as techniques that can be used to avoid them. Experienced Project Managers looking for pointers on how to be more effective in negotiation situations should find this of interest. The goal is to help you understand when to hold your position in a negotiation, when to “fold” (compromise), when to walk away, and when to run!

### Introduction

Negotiations are a fact of life. Everyone negotiates every day — with co-workers, supervisors, clients, vendors, family members, and even themselves (should I play this hand or should I fold?). A negotiation is a means of getting what you want from another party. In an ideal world, all negotiations would be situations where participants try to understand the position of the other side, openly work together to problem solve and make decisions based on merit, and reach a mutually acceptable agreement. This is the premise for “principled negotiation,” which is covered in the book “Getting to Yes – Negotiating Agreement Without Giving In.” We definitely

advocate using a problem-solving approach to negotiation whenever possible; however, the world isn't always that neat and in many situations, one side really is trying to get the better of the other.

When we discuss negotiations in this paper, we use the word “opponents” to describe the sides involved. Although it may be an unfortunate choice because it reinforces the notion of a negotiation being a situation with a definite winner and loser, we don't have a better word to offer since, in reality, all negotiations really are contests. We do suggest you remember the golden rule whenever you are involved in any negotiation: Treat others as you want to be treated. Be polite and respectful, and use your listening skills to really try to understand the views of the other side.

### **The Negotiation Process**

The negotiation process consists of three phases: pre-meeting, the actual negotiation, and the post-meeting. Before conducting a negotiation, it's important to have a plan. This is no different than trying to undertake a project without a plan! You need to develop your position based on fact-finding and analysis, and the logistics of the negotiation need to be planned. After the negotiation there are typically follow-up activities. In this section of the paper, we discuss each phase of the negotiation process in more detail.

#### **Pre-meeting**

Prior to any negotiation, there are important strategic, administrative, and tactical planning considerations that need to be addressed.

**Strategic planning** addresses the goals for the negotiation. Part of strategic planning is learning about your opponent's needs and goals. This can be accomplished by studying their business financial statements and public records, visiting their facility and asking questions, or checking with people who have dealt with them. Strategic planning also involves fact finding, financial analysis, and testing all assumptions. It's important to note that if you are conducting a negotiation for your company, strategic planning often includes stakeholder bargaining, since it's not unusual for internal stakeholders to have different opinions on critical issues and what defines an acceptable outcome for the negotiation. The key pre-meeting deliverables to agree upon are your

- **Initial Offer** – This is the first offer you will make at the appropriate point during the negotiation. It's important to have some data and justification to back this up or you risk losing credibility;
- **Goal for Settlement** – This is your desired outcome for the negotiation; and
- **Walk-Away (No Deal) Point** – This is the outcome where you won't make a deal. For example, let's say you are buying a car, and you decide that, based on your financial situation, the most you can pay for a car is \$30,000. When negotiating with a car dealership, if their best and “final” offer is \$31,000, you should walk from the deal.

**Tactical planning** refers to determining the approach and techniques to use during the negotiation to obtain the best possible result. This includes deciding whether the negotiation is a cooperative problem-solving situation or an adversarial situation where compromise will be the outcome. The negotiator and the organization must know what is wanted and why (strategic planning) before negotiating tactics can be selected. Tactical planning is very important, since a good strategy can be weakened by poor tactics during the negotiation. Conversely, good tactics can compensate for a poor strategy. Tactics are the techniques used during the negotiation to

create a situation in which the goals can be reached and bargaining positions defended. Negotiation tactics can include use of deadlines, good guy-bad guy, data jumble, escalating approval, trial balloons, and leaks. However, a discussion of these tactics is beyond the scope of this paper.

**Administrative planning** deals with managing the pre-meeting activities, ensuring that all necessary information is gathered and all negotiation logistics are resolved. This includes defining the following:

- Who will be involved in the negotiation
- What will be covered in the negotiation (what can be discussed and what won't be discussed) including the agenda
- Where the negotiation will be held, including logistical items such as the shape and size of the table (recall the Paris Peace Talks that ended the Vietnam War!)
- When the negotiations will be held (date, time)
- Why – which gets into what is the desired outcomes from the negotiation

### **Meeting**

The negotiation meeting typically consists of three phases: the opening, hard bargaining, and the closure, which hopefully results in an agreement, but can be a deadlock.

During the Opening Phase, the rules and agenda for the negotiation should be covered, along with the items to be negotiated. The opening phase may include “verbal fireworks” if the negotiation is between two antagonists. For example, in negotiations over labor contracts, it is common for both sides to start with verbal fireworks as a means of presenting their position. The management team may complain about their lack of profits over the last few years due to high labor costs, and the union may complain about the poor benefits compared to similar companies. The outcome of the opening phase should be a clear understanding of the problems and issues that need to be addressed.

In the Hard Bargaining Phase, both sides “ante up.” They employ various tactics while they discuss the problems and issues, explore possible resolutions, and make decisions. If this is a problem-solving (i.e., principled) negotiation, then both parties will try to resolve the problems and issues of the other side and will openly work together to reach a mutually acceptable agreement.

By the Closure Phase, agreements have been reached and the negotiation is coming to a conclusion. Typically, the agreements are reviewed and a final document signed to verify what has been agreed upon. For example, the closure phase for a new car purchase includes signing the contract (and any loan papers).

### **Post-Meeting**

It's important to note that negotiations are not really over just because the negotiation meeting ends. The negotiator may need to go back and inform the stakeholders of the outcome and obtain their agreement and acceptance. Agreement elaboration may be needed after the negotiation, which might entail the actual writing of a negotiation agreement document.

A recent example of this is a redevelopment project in a town along the New Jersey coast. The developer presented his plan for the redevelopment of five blocks in the center of town. After the presentation and over two hours of discussion, the Town Board finally approved the plan with some required modifications. However, it took another three months for the lawyers to prepare the zoning agreement document for signature due to disputes over what was agreed to at the meeting.

### **Common Negotiating Mistakes**

Unfortunately, most people are not good negotiators (or card players!) and end up with results that are really not optimal. Listed below are the top 10 negotiating mistakes based on our observations in working with numerous clients over the years. This list is not in any particular order, and a more detailed description of each item follows.

1. Having low aspirations and/or weak negotiating skills
2. Making low initial demands
3. Making the first concession and/or large concessions
4. Neglecting to ask questions
5. Providing too much information
6. Making assumptions
7. Reaching quick settlement
8. Lacking a plan
9. Losing focus during the negotiation
10. Misusing power

### **#1 – Having Low Aspirations and/or Weak Negotiating Skills**

An individual's level of aspiration is directly related to his or her level of performance in negotiating. A person with a higher aspiration level tends to be more successful, and typically wins in a negotiation over a person with lower aspiration. A person who is a skilled negotiator and has a high aspiration level tends to be very successful. If you have two people with high skills and high ambition, the probability of deadlock is high.

A classic case of this happened a few years ago on a major road project in New Jersey. One large engineering firm was in charge of the design, while another company was providing specific scope on the project. It didn't help that the two companies really didn't like each other and were only working together because the client insisted on the arrangement. Cindy, from the lead engineering firm, and Bob from the sub-design firm were their companies' Project Managers; both had high aspirations and were skilled negotiators. On several occasions, scope changes arose and the negotiation was the same every time. Bob would state that it wasn't in the contract and was therefore a change, and Cindy would claim it was in the contract (using a very generous interpretation of the contract wording). Bob would submit a change order with a large initial cost demand, and Cindy would not approve it claiming it wasn't a change. A deadlock occurred every time, resulting in a meeting with the principals from each company, and a compromise was reached every time to avoid engaging the client in the disagreement.

It's important to remember that a person's aspiration level can change over time, and is directly related to their location on Maslow's triangle on the hierarchy of needs. If a person is on the bottom rungs of the triangle, dealing with physiological, security, or social needs, their aspiration

related to a negotiation will probably be low. If the person is at the top rungs of the triangle, which are self-esteem and self-actualization, their aspiration related to a negotiation will probably be high.

A person's negotiating skills are also important. A friend, who we'll call "Mike," was laid off from his company in upstate New York. After being out of work for several months, he found a temporary contract job with an engineering company in New Jersey to manage one specific project. Mike did a good job, the project was successful, and the engineering company decided to offer him a full-time position at a salary of \$105,000. Now even though the job market in upstate New York was dismal at the time and he had no other offers on the table, Mike replied that he wanted \$110,000. To his amazement, the hiring manager immediately agreed to the higher amount. You see, while Mike was a skilled negotiator with high aspirations, the hiring manager was neither! As any good gambler knows, it's not always the cards you hold but how you play them. A better response — and one Mike would have likely accepted given his circumstances — would have been for the hiring manager to tell Mike that a 6-month review would be done and at that point a salary adjustment would be considered.

### **#2 – Making Low Initial Demands**

A skilled negotiator will either make large initial demands or reveal no initial position. This also ties into the person's perceived negotiation position. For example, in a tight labor market, a job applicant might think he or she has little power to negotiate and will make low or no initial demands. A recent example is an acquaintance who accepted a job at a new company, with only two weeks of vacation whereas in her previous job, she had four weeks. However, she didn't negotiate the point, accepted the job offer, and then complained bitterly about her "lost" vacation time. What could she have done differently? It doesn't hurt to negotiate in such a situation – it's highly unlikely that an employer would pull a job offer because you ask for something. At worst they may say "no," and more likely they may offer a compromise. If you fold before you really study your cards, you don't give yourself a chance to play your hand, much less win.

### **#3 – Making First Concessions and/or Large Concessions**

The person who makes the first concession and/or the largest concession typically ends up on the losing end of the negotiation. A classic example of this is the negotiation over Czechoslovakia in 1938 between Neville Chamberlain, Prime Minister of England, and Adolph Hitler. Chamberlain, who was eager to avoid war, made the first and the largest concessions, essentially giving Hitler his territorial demands which included control of Czechoslovakia. We all know what happened from there...

In making concessions, leave plenty of room to negotiate from your initial position to your desired outcome. The skilled negotiator will make only infrequent and small concessions during the negotiation, which is intended to avoid raising the expectations of the other party. In making concessions, also be wary of "tit for tat," which can be manipulative. The key is to not lose track of your goals when making concessions. Remember that each concession has an effect on the aspiration level of the opponent and is also a reflection of the negotiator's resolve to meet his/her objectives. Encourage your opponent to open up first and put their demands on the table. When you do make a concession, make your opponent work for it and get something in return. Also remember that "I'll consider it" is a concession and one you can easily back away from later. Finally, don't be ashamed to walk away from a bad concession. Remember that everything is open for negotiation and nothing is "settled" until the deal is signed!

#### **#4 – Neglecting to Ask Questions**

Ask questions of the person you are negotiating with to learn about their needs and goals. You'll be surprised how much people will tell you if asked! For example, when buying a car, ask the salesperson how business is going, whether there is a sales goal for the month, and how close the dealership is to the goal. If you are providing a quote for work, ask the client who else is bidding the work and what selection criteria will be used to evaluate the bids. What's the worst that will happen – the person may say it's none of your business. Be careful not to use an "interrogation" technique because that puts the person on the defensive. Be conversational and work the questions into the first part of the negotiation where there typically is some casual talk.

#### **#5 – Providing Too Much Information**

This is the flip side of asking questions. Be careful not to provide information that can help your opponent with the negotiation, just like you don't let fellow card players sneak peeks at your hand! Lying or providing misinformation is not something we recommend – that's unethical. However, there is nothing wrong with not answering questions or keeping a "poker" face. If your opponent asks a question, you can just not respond, or tell him/her that "I don't think that's something I want to share with you at this time."

For example, a car salesperson will probably ask you questions about how long you have been looking, why you need the car, and what other manufacturers have you considered. The salesperson does this to define his/her negotiation position and the tactics that will be employed so a sale can be made. The worst approach is for you or anyone with you to tell the salesperson how much you love the car. That's way too much information and severely impacts your negotiating position! Another example of providing too much information is telling a client your company is having a bad year or just lost a major contract. This tells the client you need the deal and will be willing to make concessions. Remember, you've gotta know when to hold 'em, and that includes holding your tongue!

#### **#6 – Making Assumptions**

An assumption is something that is believed to be true without proof. Many people typically make assumptions going into a negotiation and this can be harmful to their position. Treat assumptions with skepticism and work on the basis that your assumption may be wrong! The best way to test assumptions is to ask your opponent questions. You may not get a response, or at worst the person may lie, but surprisingly most times your opponent will give you the information you need to determine whether the assumption is valid. An example of this goes back 8 years ago when we bought a Saturn, a company that advertised that their low prices were not negotiable. The easy assumption to make was that price wasn't negotiable, but we didn't take that approach. When the dealer wouldn't meet the price we wanted to pay (i.e., wouldn't negotiate) for a dealer's car that had some limited mileage on it, we "walked away" with the intent of continuing our search.. Two days later the dealer called us and offered a special "mileage discount" to meet our price and get our business.

#### **#7 – Reaching a Quick Settlement**

Quick settlements usually result in more extreme outcomes and typically favor the skilled negotiator – which may not be you! A very recent example of this occurred on our vacation last winter in Cancun. The all-inclusive resort we stayed at made a presentation to us about pre-buying vacation weeks, and offered us an 'extraordinary' deal of 26 weeks use of the resort for a low upfront price of \$24,000. However, they pointed out that we had to immediately sign – the

offer was only good until we left the room. Our response was if it was such a great deal and they wanted our business, they should allow us a few days to think it over. They wouldn't agree to this and we left. Even though the offer sounded good, there were too many unanswered questions such as what happened if they went out of business? We later talked to the Sales Manager and he told us that over 30% of the people sitting through the presentation signed for the deal. As "The Gambler" says, you have to know when to run!

### **#8 – Lacking a Plan**

You've got to really look at your cards before you play them, and before you negotiate you have to do your research. For example, did you buy your last car on impulse or did you research the make and model on the Internet before going to the dealership? On the Internet you can find dealer prices, typical mark-up information, and costs for options. The same planning should be done for all negotiations. Refer to the section of this paper on the negotiating process to better understand the steps to follow in preparing for a negotiation.

### **#9 – Losing Focus during the Negotiation**

Things can happen quickly in a negotiation, so it's important to maintain focus on your goals throughout the process. Having a plan for the negotiation and sticking to it can help ensure this. A recent example is that of a partner in an engineering firm that was negotiating pricing for a series of change orders with a client. One of the change orders was for a study on an endangered species found on the project site. The engineering firm was going to do some of the work, but the bulk of the work required the use of a specialty consultant. The client kept insisting the price of the study was too high and repeatedly demanded a lower price. The partner first erred in not having the technical manager involved in the negotiation to explain the costs to the client, and then furthered his mistake by finally agreeing to a price which was below what the engineering firm had to pay the specialty consultant! The partner obviously lost his focus in this negotiation.

If you see yourself about to make a concession which may not be wise, stand up and state you need a short break. Another good tactic is silence, which is uncomfortable for many people. One of the authors was involved in negotiating a change order price with a contractor on a construction project. The contractor at one point stated that the price was the absolute lowest he could go. The author just sat silently for over a minute looking at the contractor, who then blurted "all right – what if I lower it another 10%?"

### **#10 – Misusing Power**

Power is defined as the ability of a negotiator to influence the behavior of an opponent. It's important to remember that power may be real or assumed. For example, your opponent may assume you have the decision-making power in a negotiation, but when the agreement is finally reached, you state that your management team will have to review and approve the final deal. Also remember that power exists only to the extent that it is accepted, and that using power always entails risk. For example, your boss has the power of authority, but you can always say "I quit," which eliminates his/her power over you. Finally, keep in mind that power relationships can change over time. You may be the boss today, but the person working for you may end up being your boss at some future point!

There are different types of power related to negotiations:

- Ability to reward or punish – An example of this is dealing with your boss, who has the ability to make decisions that impact you such as raises, promotions, and maybe whether

to terminate your employment. Obviously in a negotiation this gives an advantage to your boss, but it's not absolute. If you have a key skill needed by the company, the power balance shifts more in your favor.

- **Authority** – Being President of a country, Chief Executive Officer of a company, or a General in the military are examples of authority. If you are in a negotiation and it's been made clear to all participants that you are the decision maker this gives your power legitimacy. A good example in the use of authority is Ulysses S. Grant, General-in-Chief of the Union army in the Civil War. In February 1862 he attacked Fort Donelson. When the Confederate commander asked for terms, Grant replied, "No terms except an unconditional and immediate surrender can be accepted." Grant knew he had the troops, the firepower, and the authority, and no negotiation was needed – the Confederates surrendered. However, Grant also used his power in negotiations wisely. When Robert E. Lee surrendered to Grant at Appomattox Court House effectively ending the Civil War, Grant wrote out magnanimous terms of surrender that prevented treason trials, and allowed the Confederates to keep their horses and guns.
- **Knowledge** – To be effective in a negotiation, you need to have knowledge regarding the subject area being negotiated. If you are buying a new car, the more information you have regarding the cars under consideration makes you more knowledgeable in the negotiation with the car dealer. A lack of knowledge can result in a flawed negotiation. After World War I, the victors came up with new borders for many countries in Eastern Europe and the Middle East. Unfortunately, they didn't have a good knowledge and understanding of the ethnic groups in the region and drew borders that resulted much later in conflicts and the break-up of countries such as Yugoslavia.
- **Ability to tolerate uncertainty** – Most people like certainty in their life, and negotiations are all about uncertainty. You don't know where you'll end up when you start the negotiation, so the uncertainty is high at the beginning and drops as the negotiation points get resolved. If you have the ability to handle uncertainty, this can be a source of power in a negotiation, unless the other party in the negotiation has the same ability.
- **Time** – Many Americans tend to be impatient. In the haste to reach a conclusion, the impatient person may start with an initial offer too close to their real desired outcome, and may be too quick to make concessions. Other cultures tend to be more patient in a negotiation, and this is a source of power.
- **Negotiation Skills** – A person who has the training and experience as a negotiator has a source of power over the opponent. A good example of this is car salespeople. One of the authors has actually prepared training materials in how to negotiate and close the deal for a well-known European car company.

In conclusion, the key point is to be judicious in your use of power in a negotiation. You can force a decision in your favor, but it may lead to unintended consequences down the road. A good example is the peace treaty imposed on the Germans at the end of World War I. The onerous terms and harsh conditions planted the seeds for the rise of Adolph Hitler and the advent of World War II.

### **Conclusion**

Before you enter into a negotiation of any type, review the recommended procedure presented in this paper and be aware of the 10 common mistakes made in negotiations. Doing this will help make you a more effective negotiator, as will remembering the lyrics from the “The Gambler”: “If you’re gonna play the game...ya gotta learn to play it right. You got to know when to hold em, know when to fold em, know when to walk away and know when to run.”

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