

Negotiation Success Requires Planning

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Abstract: Negotiating is another of those non-technical "survival" skills that project managers are not taught in school. Without adequate planning those engaged in negotiations are likely to repeat common mistakes and negotiate poorly. Ten common mistakes are briefly examined and suggestions for preventing them are presented. Six of the common mistakes are related to planning negotiations. A checklist with suggestions and examples is presented as a guide for more effectively planning negotiations.

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Introduction

Negotiating is most often learned by the old fashioned "sink or swim" method when the representative for "our side" is told to "go negotiate and do your best". The difficulty with this method is obvious. Any early success will be accidental. Success and failure will produce a pattern of behavior from which the negotiator will learn how to negotiate. Unfortunately, this does not guarantee that the negotiator will have learned the most important or most effective behaviors to ensure continued success.

Learning from others' experience is an excellent way to increase success on purpose. Ten common problems we have discovered are presented below with suggestions for dealing with them. Because six of these common problems are related to planning, a checklist is presented as a guide for the negotiator. Use of the checklist will help enhance the negotiator's probability of success.

Ten Common Problems

The most common problems we have encountered are the following:

1. Starting with a win-lose approach
2. Inability to change negotiating style
3. Making concessions for the sake of client relationship
4. Bargaining instead of negotiating
5. Establishing objectives as a fixed point instead of a range
6. Not choosing team members wisely
7. Failing to establish priorities
8. Not planning for possible concessions
9. Attempting to negotiate with unclear authority
10. Failing to take notes or debrief

Looking at this list, it is evident that the first four problems relate to negotiating style and the last six are planning issues.

The Model of Negotiating Styles model by Rollin and Christine Glaser has been used extensively and serves as a basis for discussing style problems in negotiation. (Glaser, 1982).

The Model of Negotiating Styles is based on relevant literature on negotiating practices, including *Getting to Yes*, by Roger Fisher and William Ury. These sources reveal that both concern for the outcome of the negotiation and concern for the relationship appear to represent the most important behaviors a negotiator can employ in an actual negotiation. Furthermore, it is clear that a negotiator cannot be effective in both the short and long terms if he or she emphasizes one set of concerns to the exclusion of the other.

Although variations of each of the 5 Negotiating Styles may be appropriate under certain conditions, it is suggested that a consistent application of the Collaborate style (win-win) offers the greatest probability of producing the highest quality negotiating results and the most enduring satisfaction to the parties involved. A Negotiating Styles Profile is available from HRDQ that can help the PM determine his or her characteristic negotiating style. >>

<http://www.hrdq.com/products/nsp.htm>

<u>Negotiating Style</u>	<u>Objective</u>	<u>Primary Methods</u>	<u>Outcome</u>
N-1	Win at any cost	Pressure, intimidation threats, power	Win-lose
N-2	Collaboration	Problem solving	Win-win
N-3	Build or maintain friendly relationship	Give-aways to keep other side happy	Lose-win
N-4	Avoid conflict	Take anything, don't press for own needs	Lose-win
N-5	Compromise, find acceptable agreement	Bargain, split-the-difference	No winner, no loser

A negotiating style refers to a negotiator's characteristic way of dealing with others during a negotiation. People are more complex than any style model. But, because many people do act in similar ways a good model becomes a useful approximation of what actually happens.

Style Problems

The first problem involves starting with the N-1 style. If the negotiator starts in a win-lose way, it is almost impossible to finish win-win. The N-1 style creates mistrust, emotional reactions, etc. Since most of us copy what we have seen others do the N-1 style is often used because it is what the most aggressive negotiators use and stands out in our memory. It's also the style that is most talked about. When is the last time you remember a story about a PM who planned and had a successful win-win-negotiation. The Corporate tales usually are about so-and-so who was tough or how hard it was to deal with Mr. or Ms. X who was a "tough" negotiator. However, most negotiation experts say that the N-2 or the win-win style is the best (most effective) style for a negotiator to use.

There is a pragmatic reason for this. People who feel they are winners will help the other party be successful by ensuring a smooth implementation of the negotiated agreement. On the other hand, people who feel that they are losers (have been taken advantage of or have been pressured into an agreement) will help the other party fail. It is easy to help someone fail. One just takes what is said literally, loses documents, writes commitments for the wrong date on the calendar or, in some other way, becomes "suddenly stupid." To prevent this and to increase the probability of a win-win negotiation, the negotiator should start with win-win.

The second problem is the negotiator's reluctance (or inability) to change styles. People do what they feel comfortable with. Whatever style a negotiator begins with, it is essential to be able to operate in a different mode. The negotiator should start with win-win as suggested above. But, the negotiator who does not (or can not) use other styles will become a loser. If the other party starts with and stays win-lose, the negotiator has no choice but to also "play hardball." Win-win does not mean cooperative at any cost.

The next problem comes from treating clients as though they were fragile. Client relations is on everyone's mind today. Professional service firms that take their clients for granted will lose them. This does not mean, however, that it is appropriate to use the N-3 style to build or maintain a

relationship. The negotiator who uses "give-aways" and treats the client's needs as more important than the negotiator's (N-4), will do a real disservice to his or her firm.

Making concessions to buy a positive client relationship may, occasionally, be an appropriate strategy. But, it would be as practical as trying to change a Grizzly bear into a vegetarian by feeding him hamburgers.

The final style related problem is very prevalent. Many negotiators mistake bargaining for negotiating. The negotiator who believes "half a loaf is better than none" or, "you always get less than you really need" will always get less than he or she needs. It is essential in negotiations to press for one's own interests or needs just as hard as one seeks to find ways to meet both parties' needs. The negotiator who starts off by focusing on equal "pain" instead of equal "gain" will not be successful. It is this kind of negotiator (N-5) who falls for the split-the-difference tactic. Negotiators who suggest, "Let's split-the-difference, are sure the split will be favorable to them.

Planning

The other common problems on our list arise from a lack of planning. It's just like managing a project. If you fail to plan, you plan to fail. Suggestions on how to deal with these six negotiation problems, as well as some other essential planning elements, are included in the following negotiation planning checklist.

NEGOTIATION PLANNING CHECKLIST

1. Who is on the team?
 - our side?
 - their side?
2. What issues will be involved?
 - what do we want to avoid?
 - what questions will they ask?
 - how will we answer their questions?
3. Priority of issues?
 - musts (essential for success)
 - wants (like to have but can live without)
 - gives (planned concessions)
4. Value of issues:
 - to us?
 - to them?
5. Settlement Range:
 - least acceptable result
 - maximum supportable position
 - other side's position
6. Do we have backup information?
7. What is our initial position?
 - what concessions should we have available?
8. What are the other side's issues and objectives?
 - what questions should we ask?
9. Who has what authority?
 - did the boss sign off?

10. Who will take notes?

- other sides' initial position?
- tactics, who does and says what to whom?
- agreements?

EXPLANATION OF NEGOTIATION PLANNING CHECKLIST

1. Team

It is important to select only team members who have the capability of using more than one style.

If you know who will be on the other side's team, choose people who will interact easily with them. Emotional people should not be the active negotiator. It is too easy for their emotions to get them into trouble. They would be better as planners or used when emotion is needed at the "table." Yes, "good cop, bad cop" works in negotiations too.

2. Issues/Questions

List any issue likely to be important to the negotiation or that the other side might bring up. These include scope of work, schedule, labor rate, use of subcontractors, use of drawings, reimbursables, billing terms/schedules and many other issues. The specific negotiation will determine what the issues will be and how many there are.

Don't open up issues that involve a weakness you know exists. The other side may overlook it, or make a faulty assumption. Good! Don't bring it up.

For example, it may be necessary to say that a branch office can use a particular software. However, that office doesn't have a copy of the software. And the one person on staff that knows how to use it is totally committed to a project in another State. (If the contract is won, someone will be able to be transferred or hired with the needed knowledge). Therefore, you would not want to talk about the software, because you would have to prematurely commit to how you will make someone available.

Anticipate questions they might ask and prepare suitable answers. You should be able to anticipate 60% to 70% of the questions they will ask you. This is true if you commonly do "after-action" reviews or debriefs of negotiations and completed contracts. An after action review (AAR) is a discussion of a project or an activity that enables the individuals involved to learn for themselves what happened, why it happened, what went well, what needs improvement and what lessons can be learned from the experience. The spirit of an AAR is one of openness and **learning** - it is not about problem fixing or allocating blame. Lessons learned are not only tacitly shared on the spot by the individuals involved, but can be explicitly documented and shared with a wider

audience. (KM:Toolbox, 2005) You should keep track of negotiators for repeat clients. Their style is not likely to change. You should be prepared to deal with their usual methods of trying to win for their side.

If, during the negotiation, you find yourself being surprised, take a break and do more anticipating.

No matter what, be prepared to answer the questions you don't want them to ask.

3. Priority

All issues should be rated as follows:

Musts: Issues essential to the negotiation. If the negotiator doesn't get any one of the Must Issues; it is some degree of failure.

Wants: Issues that are very desirable for your side. These are issues to actively "fight" for. But, if the negotiator does not get one or more of them, the negotiation is still successful.

Gives: These are issues that would be "nice to have." The only reason to fight for them is to create value for the other side, as you give them up. Give issues are needed to have some items to "trade away."

Issues may come up during the negotiation that require a negotiator to be flexible. Flexibility in negotiations simply means being open to any offer or suggestion, and being ready to make changes when needed to reach agreement.

4. Value

Each issue (or need) must have a value. Neglecting to determine the value of one's needs would be like playing poker without knowing the value of the chips. Thus, the negotiator should know the value of each issue and what their value to the other side could be.

Sometimes it's easy e.g., in an environmental clean up contract a change in scope that requires additional diagnostic data. The addition will have a dollar cost and a **dollar profit value** for the firm. For the other side, it has a dollar cost and the **value of increased confidence** in using fewer

monitoring wells than originally proposed - thus a net dollar savings. (The negotiator may have to tell the other side how to value the change. If they had not been considering it, they may not realize the value it could have for them.)

Sometimes issues are given up without realizing the implications. For example, the contract says the Construction Manager will be responsible for safety audits of the worksite. Although one of the negotiator's "wants" is to avoid that responsibility, it is given up. If the negotiator did not attribute a specific value to this issue, he would not realize that, by accepting the responsibility, there is the cost of increased staff time and added business risk.

Don't give up issues without knowing their value. It's just like "free work" for the client. It's not free. All "free work" decreases profit.

5. Settlement Range

It is essential to clearly establish the objectives for each issue. These should be as quantifiable as possible and set an upper and lower limit. The upper limit is the Maximum Supportable Position (MSP). It is the most the negotiator can ask for with some supporting documentation, fact or rationale. It has been described as the most one can ask for while keeping a "straight face." The lower limit is the Least Acceptable Result (LAR). This is the lowest the negotiator can go and still meet some needs. Any lower and it will be necessary to walk away from the negotiation. (Schatzki, 1981)

THIS IS THE MOST IMPORTANT PLANNING ELEMENT. This is the objective. It is so important because **you can't get what you don't ask for.**

The settlement range must be established with the approval of the person with the "sign off" authority for the negotiation. If the negotiator's authority is unclear, the negotiator will be severely handicapped. One can't be flexible without authority.

Note: Flexibility is important. As the negotiation progresses the settlement range should be changed, if warranted.

Anticipate what the other side's position will be regarding the settlement range for your issues. What will their least acceptable result be (their bottom line)?

6. Backup Information

This is an ongoing step. The negotiator needs information to **back-up** statements about the issues and to **discount** the other side's statements.

When planning to use data in a negotiation one should ask, "What can be presented as proof that this is true, considering all the other side's possible challenges?"

Watch out for assumptions. If your assumptions are substituted for facts the negotiator is very vulnerable. Use your assumptions as a basis for asking questions.

7. Initial Position

Everyone who negotiates assumes the other side will ask for more than he or she will settle for. If the negotiator opens up with a "best and final" offer; it is really a "take it or leave it" position. For example, if the other side were to take the first offer immediately, you are likely to feel you didn't ask for enough. The converse would be true for the other side, if their first offer is immediately accepted. They would believe they gave "away the store." **There is no satisfaction in such an immediate victory, just a nagging doubt.**

During the negotiation, when the negotiator moves off the initial position the other side will feel that the negotiator listened to them and is being flexible. As negotiating expert Herb Cohen says, "The more energy spent in pursuing the goal, the more desirable the goal. People support what they create. Therefore, don't make it too easy for the other side."

Now is the time to plan concessions. It doesn't mean the negotiator will give away anything significant, but one must have something to give. Everyone wants to feel they got something from the other side. Establishing objectives as a fixed point instead of a range, or having all issues of equal importance, makes it much harder for the negotiator to be successful.

“Always remember that the other party has to save face. They will have to justify their actions at least to themselves and, more frequently than not, to others within their organization. The more successful you are in your negotiation, the more important it is to pay attention to the face saving needs of the other party.” (Schatzki, <http://www.negotiationdynamics.com/about.asp>)

8. Other Side's Issues and Objectives

Anticipate the other side's issues and objectives. The degree to which the negotiator is able to do this will be a signal that the planning has been successful.

Plan questions about their issues, to discover their priorities and how they value their issues. If the other side is continually surprised by your questions, this may indicate that they have not done their planning well and enable the negotiator to achieve the higher end of the settlement range more easily.

According to Neil Rackham, who did a 10-year study that sought to determine what distinguished the most skilled vs. average negotiators; skilled negotiators ask twice as many questions as average negotiators.

The negotiator can not ask too many questions.

10. Taking Notes and Debriefing

The negotiator should take notes about the other side's opening positions to get an idea of their MSP and to ensure that later they don't escalate their objectives. When the other side does that, it may be a sign that you are perceived as having a "weak case." If so, this would be a good time to caucus or halt the negotiation temporarily. Of course, they may just be trying to see if you are paying attention.

As the negotiation proceeds, the negotiator should keep track of preliminary agreements. This will often make it easier to reach a final agreement because a majority of items have been resolved and "we wouldn't want the negotiation to fail because of these few remaining issues." As the negotiation progresses, preliminary agreements can be used as "gives" to help resolve the final issues.

Negotiation is not a game but, there are game-like elements to negotiations. Each negotiator has found that certain tactics have been successful for him or her in the past, or successful with specific negotiators from the other side. However, planning tactics to use is less important than the other planning elements. Even so, **keeping track of the other side's tactics is essential.** Just as baseball catchers keep track of which batters are vulnerable to specific pitches, the negotiator should know what has been tried by the other side because that's what that company or that negotiator always tries. It will enable the negotiator to plan counters when dealing with that company or negotiator again.

Minutes of negotiations are important history, not just notes. They should include who said what to whom, tactics or ploys used, patterns of behavior, "quotable quotes", agreements made/broken, etc. One of the most fundamental mistakes negotiators make is not taking notes. They are useful as shown above. And they are particularly useful when the negotiator can say, "Remember when you said..." and use their words against them.

Another fundamental mistake negotiators make is to ignore the learning that can come from debriefing successful as well as unsuccessful negotiations. The value of time spent in debriefing will more than be made up by negotiating more effectively in succeeding negotiations.

FINALLY

If it is a large, complex, or very important negotiation, you should role play the negotiation as part of the planning process. The revisions that come from a conscientious role play can be very helpful in the real negotiation. This is a step often neglected. If you want to change someone's behavior you should have them practice the behavior.

REMEMBER

You can't get what you don't ask for.

Always ask, "Can't you do better."

Don't give without getting.

Weak arguments dilute strong ones. Never give a second reason when a first one will do.

It doesn't matter who concedes first.

If you don't take notes, you are at the mercy of those who do take notes.

To actively listen: Paraphrase to test understanding

Ask questions

Don't interrupt

Do take notes

Win-win is the objective. You achieve your objective and the other side feels that they have also won.

The secret of effective negotiation is dealing from strength, and strength comes from preparation.

David Stern

Improving your Negotiating Style

Negotiating successfully is something one can learn. Using the Negotiation Style Profile for yourself and for the team members is a good start. <http://www.hrdq.com/products/nsp.htm> The best way is to have others complete the Profile on you. What you do as seen by others is your real style, not what you think you meant when you acted.

But knowing one's style is not enough. You should practice negotiating, especially if you are new to negotiating. Just because "the negotiation team" handled the contract award negotiations, doesn't mean you won't have to negotiate. All project changes are negotiations. The better prepared you are the more likely you will have a successful project.

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