

The Dark Side of Negotiations: Ploys and Tactics

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Thank You For Inviting Me to Speak

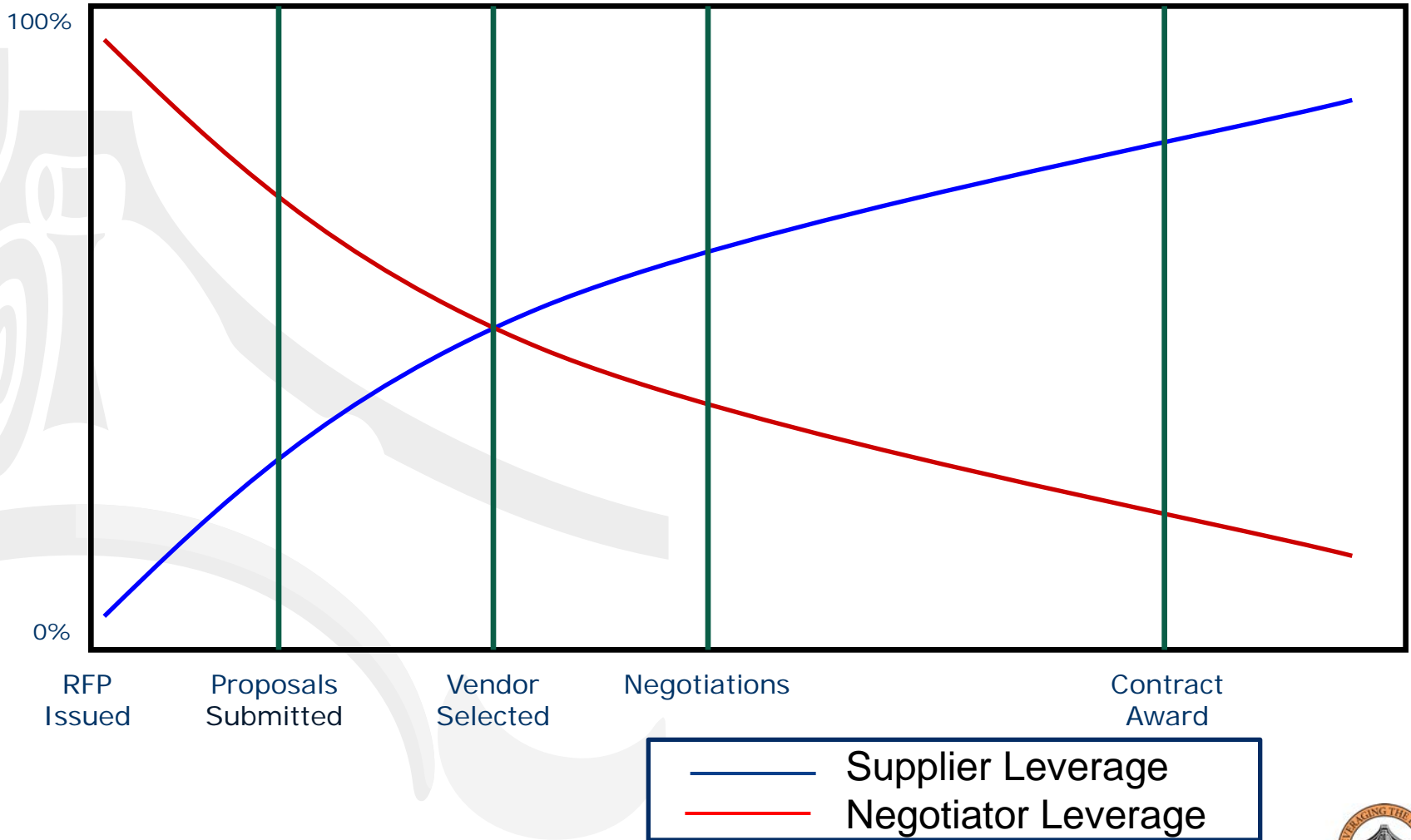
“The main difference between people that don’t negotiate well and people that do negotiate well is simply training and preparation.”

- *Stephen Guth*

“The Contract Negotiation Handbook”



When to Start Negotiations



Prepare!

- Most Desired Outcome (MDOs)
- Goals and Must Haves
- Least Acceptable Agreement (LAAs)
- Best Alternatives To Negotiated Agreement (BATNA)
- Assumptions
- Known Facts
- Don't Knows
- Make sure your stakeholders are prepared for the negotiation plays your suppliers will try.



Know Your Supplier

- Interests, Motivators
- Trades
- Options for Mutual Gain
- Your objections to other party's demands
- Leverage areas you may have discussed with the supplier
- Supplier's hierarchy

Have a Good Understanding of

Who
What
Where
When
How
How Much
What If.....



Supplier Advantages

Sales “Executives”

Compensation:

Commission on Sale

Training:

Extensive

Executive Connections:

Expected

Resources:

Usually Fairly Extensive

Time:

Plenty

Purchasing “Staff”

Compensation:

Hourly Wage or Salary

Training:

Maybe 1-2 days a year.

Executive Connections:

Not So Much

Resources

Not So Much

Time:

Almost Always “Slammed”



Understand the supplier's real interests, concerns, values

- Close THIS deal
- Meet sales goals
- Repeat business
- Relationship with you
- A champion
- Referrals to others
- Intelligence, insights, and feedback

Common Ways Suppliers Will Influence

- Executive Briefing Centers or “special tours”
- Offering to help create the RFP
- Using Ploys.....

Supplier Ploys – “Pop Tart” and “Surprise!”

“Pop Tart”

The supplier requests immediate action, disrupting your schedule and you get in the habit of reacting

Surprise!

I’ll be in the neighborhood...

What To Do:

React only as convenient for you...not on their schedule.
Be in control of the schedule.



Supplier Ploys – “Getting to Know You”

“Getting to Know You”

“Quality Time” – I want to be your friend

Used to gather information about you, the decision makers, upcoming projects, “confidential information”, etc.

What To Do:

- “Silence Is Golden”
- Arms length relationships
- Make sure information is out of sight in the office
- Pepper office with competitor’s information



Supplier Ploys - Misdirection

Misdirection or Diverting Questions

The Supplier will redirect the conversation to avoid discussions that point to potential weaknesses in their proposal.

What To Do:

- Stay focused and persistent
- If you don't get the answer to your question, ask again.
- Limit the # of supplier reps in the room at one meeting.



Supplier Ploys – Making An Impression

Making An Impression

The Supplier will bring gifts, promise donations to your favorite charities, offer to introduce you to their executive team, etc.

What To Do:

- Politely decline offers.
- Go ahead and meet with their executives:
 1. You get a better point of escalation if it is needed
 2. It makes the sales person look good, which may help him get more favorable pricing for you.



Supplier Ploys - Mirroring

Mirroring

Sales people interest in the same things as yourself – present as “just like you”

What To Do:

- Be aware – it isn't friendship
- Be forward and direct (even if not in your nature)

Supplier Ploys – Wait!

Wait

Last minute identification of issues at the end of the negotiations.

What To Do:

- Set the timing sufficiently and push the supplier hard if they do not comply to agreed upon deadlines

Supplier Ploys – Hurry Up!

Hurry Up!

- The price will increase!
- Less time to evaluate the decision
- Less time to evaluate their product
- Usually part of a sales promo incentive (for them).



What To Do:

- Rarely a true deadline – you can get the deal later.
- Hold your deadlines close to the vest
- “I guess I’ll have to find an alternate supplier”.

Supplier Ploys – Resources, Not Results

Resources Only

- Supplier with quote for time and material and does not guarantee outcome.
- Proposals often contain a lot of weasel words.

What To Do:

- Specific and clearly defined goals
- Schedule requirements, including milestones
- Tie pay to deliverables. Documented a deliverable as a “fixed price”
- Make sure your internal customer is aligned.



Supplier Ploys – “That Would Set Precedent”

Precedent

Supplier refuses to do something based on setting a precedent that would need to be followed later.

What To Do:

- Ask Why – just because they give you a concession, does not mean they have to offer the same to others.
- Ask if they have really kept track of other precedents.
- Why not for you? Would that be so bad?



Supplier Ploys – Bracketing

Bracketing:

Supplier tries to find out what you want to pay and what you are willing to pay – they try to bracket the range then work to the upper limits.

What To Do:

- Be aware that they are trying to get this information
- Silence is Golden
- “Quiet Periods”
- “I’m Not Sure”, “I’d have to check”, “We don’t divulge that information”.

Supplier Ploys – Only Game In Town

Only We Can Do This...

Supplier states that they are the only ones that can provide something (often not true)

What To Do:

- Get in front of your customer's projects.
- Understand the skills/market place as much as possible.
- Educate your stakeholders (usually the supplier has gone directly to them).
- Make it a disqualifying criterion for suppliers to talk to the customer's during an RFx.
- Include the contract in your RFx process
- Include a "termination assistance" into your contracts in advance

Supplier Ploys – That Would Violate GSA

GSA Blame:

Supplier states that if they give you pricing concession, it would violate Federal ‘best price’ guarantees.

What To Do:

- Ask them to structure the deal differently.

Supplier Ploys – Divide and Conquer

Supplier goes to multiple people to try to end-run around purchasing

What To Do:

- Establish a “Quiet Time” during RFX and Negotiations
- Ensure your internal stakeholders know that this is a ploy often used.
- Don't hesitate to disqualify a bidder using this tactic.

Other Common Ploys

- The negotiator is unreasonable (rarely true)
- Letter of Intent (limits future negotiations)
- “The sky is falling”
- Cherry Picking – presenting a “sweet deal” among a bunch of sour terms in other areas
- “I’m your best friend and will never go away, it doesn’t need to be in the contract”
- Bluffing

Other Common Ploys

- Add-Ons
- Personal attacks
- An overly high or low figure
- Chicken
- Exaggerated assertions
- Threats
- Snow Jobs

Crunches

Statements intended to move the other party from their current position

- I hope you have more room
- Sharpen your pencil...
- We have a problem....

Non verbal

- Silence, wince, surprised look to a statement

What To Do:

Never respond to a Crunch with a concession – instead, challenge all Crunches with a equally assertive or greater Crunch.



Ploy: Contracts

Use My Contract:

- Weasel words common (aid, assist in, attempt, help, support....)
- Rarely has firm commitments, warranties, guarantees
- Indemnification weak or non-existent
- Always in favor of the supplier

What To Do:

- Use your form contract!
- Favorable terms and conditions with obligations (“Supplier shall provide [firm deliverable]”)
- Shifts burden of red-lining to the supplier

Ploy: Bad Sport Contracts

Bad Sport

- .PDF contracts
- Rush to get negotiate before you have had a chance to prepare

What To Do:

- Use pdf cracker
- Refuse to look at the contract
- Postpone discussions

Your Negotiation Tactics

Good Cop/Bad Cop

- Two contract professionals alternate between a tough, adversarial styles.
- Get Your internal stakeholders engaged.

Price Slice and Dice

- Ask for pricing bundled, separately by line item, 3 year duration, 1 year duration, etc. Get as many different pricing scenarios and the choose from the various models to your advantage.



Your Negotiation Tactics

Silence Is Golden

- Unsettling to the vendor
- Impacts their confidence
- Usually they will fear missing the sale and throw in extra incentives.

Columbo

- Ask “just one more thing” to gain more concessions.



Your Negotiation Tactics

Signature Limit Lasso

- Especially useful with the “Hurry Up” ploy
- Purchase is “over the limit” of the current signature
- Supplier needs to reduce the price in order to get more immediate signature.

Slow Things Down

- Useful because the suppliers are used to having bids conducted as quickly as possible
- Suppliers tend to make more concessions



Common U.S. Negotiation Tactics

Sequence the issues using one of the following approaches:

- Cover major issues first, assuming that minor issues will then fall into place
- Cover the most troublesome issues first, assuming that other issues will then fall into place
- Cover the least troublesome issues first in order to evaluate the supplier's position and negotiators
- Arrange the issues so that, if one is settled, the rest will fall into place

Advantages of the Negotiation Site

Buyer Location

- Availability of data, backup and support
- Lower stress
- Elimination of travel fatigue
- Confidence is typically higher

Supplier Location

- Ability to view supplier operations
- Less likelihood of interruption
- More effective use of the “third party bogey”

What Else.....

- Use questions - WHY! or WHY NOT!
- Listen
- Maintain the initiative
- Use data
- Use silence
- Do not become emotional
- Use of caucuses
- Beware of deadlines
- Body language
- Keep an open mind

What To Do

- Keep a unified front
- Recognize the hardball negotiator
 - ✓ Ignore the tactic (not the person)
 - ✓ Acknowledge the tactic and suggest it is time to move beyond tactics
 - ✓ Complement the person as a tough negotiator and suggest a move to a more collaborative negotiator
 - ✓ Ask for data to back up the statement
- Pre-negotiate or re-negotiate the ground rules
- Co-opt them with camaraderie, collegiality, friendship
- Keep things positive...and when they attack, hold your fire!



What to Do

BUT....if you detect that the other side is a scoundrel using an unethical maneuver...

- Escalate to their management
- Walk away and go to your BATNA

Questions?

