### SAFETY AS A PRINCIPLE
- Personal responsibility...
- Our visitors &
- Our family &
- Our friends &
- Ourselves

### LANGUAGE
- Buyer = Contract Administrator =
- Contracting Officer =
- Supply Chain Manager =
- Contract = Purchase Order =
- Agreement =

### What do we want to accomplish today?
- A Different Perspective
- Tools and Tips
- Personal Strategy
- Become More Effective

**Taylor’s background and perspective**
Win Without Fighting!

Prepare for war but do everything you can to win before it starts

The Art of War

Problem:

“Negotiations were not conducted because”

- Too expensive
- Too much work
- Too much time
- Too many people involved
- Lack of management support
- Lack of inspiration
- Lack of energy
- Diminishing returns
- Inexperience
- Public bidding process
- Narrow definition

People are angry

Poor Negotiation = Unbalanced agreement

We can both lose a contract negotiation
The common enemy =

A malformed contract

Solution:

Normal part of the job
Seek incremental benefits
Based on company & organization goals
Long term success; a shared responsibility among all departments
Responsible sellers required

Strategy:

Strategy has been approved internally
Organization is aligned
Targets are established
Tactics part of day-to-day process
All communications reinforce our intent
I will manage the process

Strategy:

We are always negotiating
Sell Your Team: A new way to negotiate

- Not a heated wrangling between teams of lawyers and accountants
- A set of tools and work processes to: meet our needs and attain our goals incrementally
- A communication process used to reach a common understanding
- Each detail resolved is a successful negotiation
- A team can outperform an individual

Even the most complex contracts consist of many finite elements

Complete contract goal
Smooth working relationship
No surprises!
Successful performance
Satisfied organization
Option and interest by both for a continued relationship

Sellers: We have common objectives

We can both win a contract negotiation

Our New Target

A successful contract that both parties support
Negotiate before bidding starts
Information is power
Buyer Advantages
- Process and schedule control
- $$$
Weakness can be mitigated
Preplanning, fact finding, better solicitation, trained seller, internal support

Formal Bid Challenge?

Even in a formal bid process, we have leverage

Technical folks might prefer a do-over rather than the alternative

Demonstrate understanding
Resolve minor irregularities e.g. page numbering is wrong
If we need the info. to make a selection decision = BAFO
Improve value added = BAFO
Material change = BAFO
GAO case references

Clarification vs. Discussion

How can we avoid this situation next time?

How Do we Start?
Most negotiations are over before they start
What will each gain in agreement?
Pick the person, place and time
Who will decide & how?
Include powerful friends only if you can control them
Intangible allies: precedent, policy, president

It's Never Too Soon To Plan....

The problem with conflict of interest; it is not obvious to everyone
Your leadership test & responsibility
Colleagues, management and staff
We all want to support our company
Explain common mistakes:
- you're the sole source...
- competitor can't...
- we have a deadline...
Give people credit and recognition
They won't feel like they have to grandstand

Train Your Team

We can add value by....
Extra costs include...
Is this an illegal action?
We would have also included...
Have we considered these risks?
Does this violate company policy?
Have we provided for follow-on requirements, warranty, service, etc.?
Since we are both trying to make the best decision for our company, let's consider alternatives

Negotiating With The Boss

Help manager make informed decisions

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What do sellers expect from us?

I Expect Sellers To...

- Listen & Read
- Ask questions
- Propose accurately
- Accountable
- Earn their fee
- Support policy
- Be honest

What do sellers expect from us?

Strategy: No wasted sales calls

- Establish expectation and be consistent
- Bring information
- Bring suggestions
- Solve problems
- Earn the business

What we don’t know will hurt
What we assume will hurt more.

Fact Finding

- Gather information
  *From your team as well as the seller*
- Tour, travel and read
- Hard questions are easier when not negotiating
- Listen more than you talk
- Confirm all assumptions
- Other customers
- Competition
- Record, save & share

A sales call interview checklist
If it was easy, engineering could do without us

**Strategy:**
- Prepare for the tough challenges

**What can we do today to mitigate tomorrow’s problems?**

- Give the seller a chance to sell
- Demonstrate responsiveness
- Demonstrate responsibility
- Explain about prices and costs
- Data to prepare for changes
- Contingency information
  - e.g. Spare parts lists, warranty, service, operating manuals
- Supplier’s price strategy
  - e.g. price discounts, learning curve, delivery, production, raw materials, sourcing, inventory

**Solicitation:**

- A buyer’s sharpest tool

**What value can procurement add to a solicitation?**

**Do I have to buy from this supplier?**

**What am I doing to prevent it?**
- Personnel issues
- Past performance issues
- Delivery problems
- Product defects
- Delays
- Lack of proposal detail
- Status & progress reports

RFP Targets Weakness

- How can we proactively solve this issue in the solicitation?

Establish effective communications
- Gain understanding
- Build trust and honesty
- Find common elements
- Each agreed detail is one step closer to a deal
- Record, repeat & reinforce

Build Consensus

After a lot of little agreements – it’s a long way back – no one wants to start over

Seek Common Objectives

- Model: A middle-east truce
  - Establish trust, seek common goals and share in the efforts to attain peace

Examples:
- A sole-source product
- An emergency service call
- A fire system pump...
- Both parties want a successful transaction – that’s a start

What else do we both want?

- If the seller doesn’t want our money, what does he want?
- What might the seller like to have that I can offer?
Success
Depends
On People

- Trust & respect
- Collaborative attitude
- Open & honest communication
- Understand the needs and goals of each participant
- Work together to mitigate risks
- Seek an agreement that encourages successful performance

People and their personalities are an important component of every attempt to reach an agreement.

Warning
- Relationships are important – but ultimate test will be in the written agreement
- People will change
- Opinions will change
- Circumstances will change –
- Writing must survive reorganization

Add Value by Negotiating Missing Details
- Reduce cost and administration
- Enhance the ROI
- Reduce performance risks
- Mitigate future problems
- Change the nature of the transaction to strategic
- Contract element checklist

+ Contingency
+ Conditional
+ Essential
+ Optional
Can we use negotiation tactics and strategies and maintain a good working relationship?

Can we use these “tactics” without being mean or cruel?

Can we use these “tactics” on a friend?

Example: T-day, it can be done and you get better at resolving the incongruity with practice

Bottom Line: We practice win-win negotiating all the time

Profit is not the only “golden opportunity”
Selling Price Strategy

- Protect against competition
- What the market will pay
- Cover Costs
- Desired Profit
- Customer loyalty
- Perishability
- Quantity & trade discounts
- Distributor discounts

Manipulating Prices - Sellers

- Special deals
- Closeout Sale
- Loss leaders
- Parametric pricing
- Bulk pricing
- Buy 2 get 3
- Baker’s dozen donuts
- General Mills & Costco team up to sell a 4lb box of Cheerios
- Free Shipping!

Direct Cost

Indirect Cost

Indirect Cost Allocation

Are we negotiating?

What can we learn from these seller tactics?
What does the price include?

- Supplies (how much)

What does the price exclude?

- Extra cost items?

Primary price drivers?

- Mobilization, delivery, labor

What are we missing?

2X the work ≠ 2X the price

Strategy: Get a Price Breakdown

- What we know (or not) about pricing will help later

Take Time To Consider

- What can be changed? to improve the overall value
- Can we reduce seller’s cost? and our price
- What else can the seller do? at no extra cost or less than mine
- Can we remove complexity? and reduce risks
- What are we assuming? that should be verified
- What is the contract missing? That should be added
- What might change in performance?

Concessions are not always price

Cost Targets

- Unbalanced value - elements of the contract are often worth more to one party than the other
- Separate cost elements – look at the details
- Unrelated cost drivers
- Collaborate on cutting costs
- Cost savings that can be shared

Focus on what & why
- Identify indirect cost elements
- Eliminate if possible
- Add to contract

*Indirect Strategy*

*Increase the value of the contract by including all of the indirect benefits which are available. Even if we can’t negotiate a lower price, we can get more value*

**Negotiation $ Targets**

<table>
<thead>
<tr>
<th>Direct Costs</th>
<th>Indirect Costs</th>
<th>Profit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Price</td>
<td>Negotiated Price</td>
<td>Unearned Profit</td>
</tr>
</tbody>
</table>

**Are we Negotiating?**

**SOLICITATION:**
- 1 ea., 70K A/C unit, complete

**PROPOSAL:**
- ENERGY STAR
- Solid frame
- Award-winning design
- Experienced installers
- Warranty

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When the Talking Starts

Don’t forget to listen
Don’t forget to stop talking

- What do we think we know?
- What don’t we know?
- What the seller need/want?
- What is motivating the seller?
- Who/how will the decision be made?
- Why/when would they walk?
- Is failure an option?

Verify Facts & Assumptions

- Your price is preposterous
- You’re trying to cheat me
- You’re not the low bidder
- You can’t be serious
- I want to buy
- I need
- I can’t accept
- You are the worst salesman...
This is a disaster – we’re all gonna die..... or

“This justification would be better if we...”

“I think we have reached a positive outcome given the circumstances”

“It looks like we have some opportunities for long term improvement”

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Practice Positive Speak

Say it how you want others to feel it

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Don’t trust anyone else to write it. The written agreement must be exactly what you want it to say

Plain language, bullets not prose, clear intent and meaning

Daily summary, action items, points of agreement and contention

Include performance requirements and important contract elements

Timely distribution - everyone has a fair chance to confirm or disagree

Better to find out about a misunderstanding before the contract is issued.

Anything you don’t say – won’t happen

Teamwork to make sure it’s complete

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A Few Words About “The Record”

Beware Electronic Discovery Traps

Where Is My File?

January 2013
More Trouble

- Fail to consider, smart phones & social media
  - BP oil spill case, Kurt Mix
- Underestimate compliance cost & effort
  - OFHEO case - $6M error
- Mix privileged data or vital data
  - Inadvertent production of a privileged document may waive the privilege only for that document or for all privileged documents on that subject or on all subjects.
- Assume this is an IT issue -
  - Business process owner has to be involved

Unfortunately, not all contractors want to collaborate and sometimes we need to help them understand that working together is better than working alone.

**Reality**

If we can’t trust the contractor to sell it at a fair price, or perform as promised, then it’s time to employ a few more direct tactics.

**Strategies and Tactics** –

*Sometimes we have to push...*
Make sure you get an answer
Keep asking
Focus on the issue, not people
Is there a competitive product?
What makes yours better?
Why can’t you…?
How many have you had to fix?
What is the turn time for fixes?
How can we make this happen?

Do I get a price break?
How much is our price break?
Do we get maintenance service?
How long is the maintenance coverage?
Can I buy a warranty?
Please explain the warranty

Does it come with a spare tire?
Is mounting hardware included?
Has “it” been approved before?
Are your personnel qualified?
Do you have references?
Are you registered in CCR?
Will you get a DUNS number?
Does the pump include a coupling?
Is mounting hardware included?
Has it been approved by this city building inspector before? Where? When? Who?
Where is the approved repair station?
What are you going to do if it doesn’t work?
Competition is a powerful friend!
Collateral information and facts about product and other work
Strike first
Invitation to participate
A comprehensive solicitation
Ask the right questions
Pick when and how to order
This isn’t my first rodeo

Who’s problem is it?
If it’s not your problem, don’t waste energy fretting about it
Who is in the best position to solve the problem?
Get the ball over the net and clearly in the hands of the person who can resolve it

When is the best time to negotiate with a salesman on a commission?
I’d buy today if the deal was right
- I can sign the order now
You mean you want to turn the deal down?
I’d rather we find a way to work it out than start over with someone else
This could lead to future business
How long is the included warranty?
What is included in the spare parts kit?
If we reach an agreement, I will....
Did you intend to reject the order? Powerful Words
What payment discount did you offer?
What do you want me to do with this [non] invoice?
Are you telling me that you plan to breach the contract?

I'm on your side, the boss won't like it
Just one more thing after another
I thought we agreed?
It isn't in the budget
The plumber principle
Not our normal process
Our Procedure/policy won't allow it
It's not in the contract

No one does that...
I know they don't...
Not normally what they do
Seller will charge extra...
I didn't think they could...
It should...
I assume...
Change the terms
- If we agree to a 2-year purchase can we make a deal?

Change the people
- Is there someone who does have the authority?

A way to save face
- Blame it on a typo
- A way to sell it
- This is a great opportunity for long term business

Break A Deadlock

Poor Practices Too Avoid
- I always ask for 10%
- Please – because you like me
- I just have one more thing
- Losing control of the negotiation
- Negotiating with the wrong person

Companies can have bad habits as well as people

Personal Action Plan
- Make a checklist & refer to it often
- Identify important issues
- Confirm assumptions – check facts
- A cheat sheet of good questions
- Build the contract as you go
- Communicate often and effectively
- Anticipate and prepare
- Failure analysis
Good Buyer
- Makes decisions ahead of time
- Avoids the cow pies

Good negotiator
- Consistently reaches an agreement

Win-win negotiator
- Good buyer and seller relationship

Ethical negotiator
- Earns respect – not revenge

Great Negotiator
- all of the above

We Are Better Negotiators!

We can win the war without fighting a battle

Assembling a better contract

Isn’t that what we always wanted?
Contractor Responsibility Checklist

References & Resources

- Presentation: Plug & Play Negotiating
- Presentation: Cost & Price Analysis
- Presentation: Selecting a Responsible Contractor
- Responsibility Determinations
- Checklist for what can be negotiated
- Negotiation articles