

# Ten Don'ts of Negotiation

Most discussions of negotiation behavior offer guidelines to behaviors that are recommended—the “dos” of being a negotiator. In this reading, we describe a few behaviors that may cause problems in a negotiation. They are tactics that effective negotiators “don’t” use.

## 1. Don't Try To Fool Or Trick.

Many people think that a good bargainer must trick or fool others. A young realtor I know, negotiating his first big property deal, was afraid that it might fall through because of restrictive “fine print” in the contract. He decided to retain the “fine print,” hoping the other side would not discover the issue.

He was wrong. The other party had the good sense to explore the “fine print” with an attorney, and so the realtor lost the sale and with it an important client. He had made a common error in thinking it smart to be tricky. In fact, tricky tactics only make you look contemptible. They rarely fool the other party or cause the other party to make an error.

## 2. Don't Bad-Mouth.

Poor negotiators resort to name-calling, especially when their attacks are weak. It is acceptable to criticize the argument or position of the other side, but getting personal seldom works.

The case of Gene Upshaw, who represented the players in negotiations with the U.S. National Football League owners in 1986, illustrates the point. Upshaw and the owners tried negotiating through the press, each side ridiculing the other in highly-publicized press conferences. Negotiations soon degenerated into name-calling as the press seized on the most sensational of their statements, deepening and embittering differences between the parties. Negative reports flowing in all directions made real communication and exchange impossible. By the time the two sides were ready to sit down to hard bargaining, all basis for negotiation had been destroyed. The NFL Players' Association went on strike; the league owners locked out the players and then began the season with non-union teams—actions that, in the end, damaged both sides.

In another case, two managers had worked out departmental differences on a product development schedule. At the end of a hard bargaining session, the one exclaimed, “Well, that’s it. We’ve got it all sewn up.”

“Right,” the other replied, “I only hope you will stick to it and don’t try to weasel your way out.” A bitter argument followed, in which each manager hurled accusations at the other, and both left the meeting angry and frustrated.

If the second manager had truly been concerned about implementation of the agreement, proposing suggested steps for enforcement and penalties for violations might have been

appropriate. But, accusing the other manager of past violations solved nothing and only created ill-feeling. It is important to separate issues from personalities, avoid negative references, and keep negotiations private.

### 3. Don't Mask Your Position.

In a productive exchange, both sides reveal their true positions. Nonetheless, some negotiators hope to force premature concessions from the other side by obscuring their demands. Like buyers in a village bazaar, they pretend disinterest in the hope of a better bargain.

Take the case of a manufacturer who needs an unusually large quantity of a common raw material. The manufacturer has shopped around for the lowest price and now is bargaining with the most competitive supplier. The manufacturer hopes, by pretending to have a better offer in hand, to persuade the supplier to cut the price.

“Is that the best you can do?” the manufacturer asks. “Z Corporation has made a better bid.”

“That’s as low as I can go,” the well-prepared supplier responds, quietly waiting for the other shoe to drop. This did not take long. After more pretended hesitation, the manufacturer accepted the supplier’s bid.

The ploy may have worked with a less informed or experienced negotiator who, growing anxious, might have blurted out a low price to “beat” the mythical competitor. Playing coy with seasoned negotiators, however, only wastes time and inhibits serious bargaining.

### 4. Don't Get Straight To The Point.

Overeager negotiators, in their zeal to get “straight to business,” miss opportunities to enhance relationships in the opening stages of the negotiating sessions. This enhancement must be done early, for once the major issues have been raised, it is harder to create this positive climate.

The urge to act is true of American executives in their dealings with one another and with their foreign counterparts as well. Eager to get to the “meat” of the issue, they will often rush negotiations and gloss over important points that must later be renegotiated. Many foreign executives, interpreting this rush as “the American way of doing business,” have adopted it. An associate of mine discovered this to be true when negotiating with the Chinese Government in Beijing. He had worked hard to ensure that a proper climate was set for negotiation and that the ground rules were clear. However, when he asked for an agenda, his Chinese counterpart replied, “Yes, we want to talk about the agenda, and the first thing on our agenda is price. We want to know what is your price?” Alas, they did not move off price for a week. The opportunity to work on other important issues was lost.

The temptation to get down to the issues is understandable but must be overcome. There is always tension between the time needed to build the proper climate and the time taken to

conclude an agreement. This tension might incline you to jump in, get to the point, and speed up the pace at the risk of overlooking more subtle issues in the rush. Yet developing a relationship and building the capacity to communicate will save time as bargaining proceeds and in the end could lead to a better agreement.

A currently popular story illustrates this point. An American executive went to Japan to conduct business. He was to be in that country for ten days. The Japanese took him on various sightseeing trips and wined and dined him in the evenings. They seemed willing for the entertainment to go on indefinitely. On the tenth day, in desperation, the American hurriedly began negotiating with the Japanese. But their tactics were too clever. They even determined the time of his return trip and arranged for transportation to the airport. Hurriedly, he made concessions to his position. The final agreement was greatly to the advantage of his Japanese counterparts. Had he been the goat of their clever tactics? Of course not. They were simply prepared to spend time getting to know their important new partner. He twisted his own feet in a trap of his own construction.

## 5. Don't Treat The Situation As One-Sided.

Some ineffective negotiators try to plan and argue for both sides. They will build a beautiful solution to all differences, lard it with words like “fair” and “right,” and present it neatly packaged to the other party. When changes are proposed, they are indignant, for any change must by their definition be “unfair.” Their reluctance to bargain leaves the other side free to accept or reject the deal as a whole. These “two-sided” negotiators are bidding and not bargaining for business. When one side tries to argue for both, the argument often is spurious—at least it is perceived that way by the other party. You may believe that you are presenting the other side’s case fairly when actually you are arguing only for your own. It is far better to allow the other side to define their own interests and for you to concentrate on yours.

The case of U.S. baseball player Ray Knight’s contract with the Baltimore Orioles in 1987 comes to mind. Knight, the most valuable player for the New York Mets in the 1986 World Series, was a free agent. There were bound to be tough negotiations for his next year’s contract. The Mets offered him \$800,000, and yet he signed with the Baltimore Orioles for \$500,000. Knight said that he would have found a number of teams satisfactory at \$500,000 had they made him “feel wanted,” as the Orioles apparently did. Clearly, more than money was involved. The Mets’ management, “thinking for” Knight, assumed he was interested only in money and so they lost an outstanding player.

## 6. Don't Discount “Odd” Possibilities.

Sometimes it takes creativity to get results. Don’t dismiss strange ideas without putting them to the test—they just might work. An odd or unusual proposal may advance negotiations. Something that seems odd in one situation may greatly improve the chances for agreement in another. A different mode of payment, another way of delivery, an unlikely form of organization, innovative inventory schemes—all may help bring about agreement.

An exercise in our negotiation skills training program deals with the transfer of fishing boats. One possible agreement suggests the construction of a joint venture between the seller and the new owner of the boat. One of our British instructors, having seen this technique used in the classroom, used it to buy herself a boat, something she could not have done had she stuck to more orthodox bargaining practices.

In another negotiation we heard about, a chemical manufacturer had excess capacity, and a buyer wanted to ensure availability of a certain amount of a given chemical at a critical period in the future.

“We traded a future volume at a price well in excess of our current price,” the CEO of the chemical company told us. “We had the capacity available, and the buyer was willing to pay this to ensure his future production. When we got the idea, we thought it would never work. It was too unorthodox for our staid market. When the negotiation ended, the buyer was delighted with the assurance of supply, and we were delighted to book our facility twenty-four months in advance. This deal may seem conservative now, but at the time it was a giant step forward.”

## 7. Don't Seek The Perfect Solution.

Negotiations often fail because one party seeks a perfect solution. When only perfection is adequate, nothing gets done. The fear of missing the optimum deal and dragging things out in the hope of getting more can lead from delay to deadlock. You can never know when you have made the “best” bargain, so work for the best deal obtainable and then make the contract.

## 8. Don't “Give Away The Farm.”

It is fair to say that compromise is necessary, but one must also know when to walk away. You should bracket the key issues, and decide what matters most. Start out with what you would like to achieve, think of the most you can accomplish, and know where you will stop. This will help to structure your opening, your real expectations, and your walkaway point.

I helped a friend prepare for negotiating terms of purchase on a new house. He was afraid that he and his spouse were so in love with the property they would pay almost any price. They would “chase the deal.” We examined the major issues and bracketed price and other key currencies of exchange. They had firmly planned positions going into the negotiation session. The bargaining was tough. Several times they thought they might lose the deal, but they prevailed. Later they estimated that thorough analysis and commitment to the plan had been worth \$30-40,000 to them.

## 9. Don't Go Into "Might Have Beens."

After an agreement is made, avoid "what-if-ing" the concessions either side might have made. Often, a result of idle conversation or speculation, the other party discovers there might have been more favorable terms or a lower price. Your standing with the other party is damaged, and you can expect renegotiation of terms of the entire contract at the earliest possible time. Once you have made an agreement, implement it, and leave it at that.

For example, an executive was playing golf with a major customer after a series of long, tough negotiations when, surprisingly, the customer confessed, "I was ready to give in on a key provision of the contract. If you'd held your ground awhile longer, I would have conceded that point."

The executive felt miserable. Perhaps he had not pushed hard enough. Even the excellent job he had done on other provisions was no consolation. Since this one provision stood out in his mind as a failure, he felt he had let his firm down. He could do nothing about the agreement—it was signed, sealed and delivered. Next time, he thought, he would be more intractable and less flexible in the way he conducted negotiations with this buyer.

Post-agreement talk of possibilities, even made with the thought of a better deal, can only lead to mutual dissatisfaction. In the example above, the seller's dissatisfaction was immediate; the buyer's would come later.

## 10. Don't Assume That Agreement Is The End Of The Conflict.

Negotiators, sellers, and managers often believe that a conflict will disappear once it is recognized and some agreement arranged. For instance, assume that you own a small chemical company and have just negotiated a contract with a supplier for 50 percent of the raw material you use for one of your key products. Then the market changes. Raw material prices decline as your market for the finished product increases. If the current supplier is inattentive—not monitoring the contract and your business—he will miss the opportunity for selling additional volume, since you will likely place your new volume with another supplier who is more responsive to your needs.

If agreements are not examined, nurtured, monitored, and tracked, people will lose touch with them and may overlook their obligations. An agreement is only a formula to resolve conflict and must be implemented by all parties for it to work.

## Conclusion

All negotiations are based on conflict, but this conflict need not divide firms and individuals. As the noted sociologist George Simmel put it, some discord, divergence, and controversy can cement relationships. This is true of firms negotiating with one another, labor bargaining with management, and of individuals in their dealings with each other. "Some" is the key word here.

Negotiating is adversarial by nature—there are always at least two sides to any bargain. The idea is to prevent adversaries from becoming enemies. Remembering the “Ten Don’ts of Negotiation” can help contain conflict and bring you and your organization together with others—surely a major aim in all business.

“I am in four or five bargaining situations all at the same time,” a successful manager stated. “Not only do I have to convince the other side, but also my boss, key internal stakeholders, and important stockholders. I avoid costly errors by using courtesy, common sense, and my native shrewdness.” No one said it would be easy. Skill at negotiation is one of the toughest things to master. Business negotiations are complex, so it is not surprising that negotiators make mistakes. There are no “rules” of negotiation, just as there are no substitutes for good sense and a keen understanding of one’s bargaining situation. However, there are things one should not do, and we have just encountered ten of the definite don’ts.

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Pearson Consulting Associates  
POB 460067  
Houston, TX 77056  
713.627.7910  
[www.pcasw.com](http://www.pcasw.com)