The Art of Negotiation
For Boards and Leaders of Organ Procurement Organizations

May 23, 2016

Resources to Guide Your Success:

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Integrated Healthcare Strategies
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Thinking and Acting Beyond Yes

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You have now had an opportunity to work in small teams to explore practical lessons about the need for and nature of “negotiation” as an essential skill for the success of your efforts to save and prolong lives through transplantation.

We hope this guide will provide additional resources to help you refine what you have learned in California. They may also help you share insights with your colleagues when you return home.

This session has been designed to encourage your thinking about negotiation as an important leadership competency. Beyond clinical knowledge about transplantation, and along with strategic planning, budgeting, delegation, marketing, supervising and team building, the art of negotiation is now being recognized as an essential skill for you and your organization to secure the resources needed to achieve your mission for high quality and cost effective organ and tissue procurement and allocation, as well as political and financial gains that advance your mission.

This Resource Guide goes beyond the three questions in your advanced reading assignment:
1. What is negotiation?
2. Why is it important?
3. What are some basic elements of good negotiation?

We offer additional resources in four areas:
- Resource 1: Stages of Negotiation
- Resource 2: Essential Rules of Negotiation
- Resource 3: Getting Past Yes
- Resource 4: Culture and Negotiation
What is Negotiation?

Negotiation is a process by which compromise or agreement is reached while avoiding argument and dispute.

In any disagreement, individuals understandably aim to achieve the best possible outcome for their position (or perhaps an organisation they represent). However, for Organ Procurement Organization leaders, the principles of fairness, seeking mutual benefit, and maintaining positive, long-term relationships are key to a successful outcome.

Specific forms of negotiation are used in many situations: international affairs, the legal system, government, industrial disputes or domestic relationships as examples. However, general negotiation skills can be learned and applied in a wide range of activities. Negotiation skills can be of great benefit in resolving many differences that arise between you and others.

Why is Negotiation Important?

Few organizations have all of the resources they need for success. Or you may have the resources, but they are not in the right place or ready at the right time or quality. Resources can be political influence, money, staffing, services, technology, equipment and furnishings, or added reputational influence. They can also be organs, tissue, media messages, and government contracts.

You may have the staff, but not the motivation for them to be fully engaged or able to work at peak performance. Your financial pressures may change and you may need to re-negotiate what you need to meet your objectives.

In short, to succeed, to accomplish your goals and mission or to advance toward your vision for your organization, you will need to secure essential resources and relationships through the art and science of negotiation.
What are basic elements of Negotiation?

How do you get what you want while leaving the other party feeling like a winner too?

Negotiating, when done correctly, creates strong win-win situations for both parties. Unfortunately, most ambitious professionals are stuck somewhere between emulating the stereotypical Hollywood idea of a hardball business tycoon and flashbacks to childhood memories of being told to be patient and wait for rewards. As a result, most OPO and clinical professionals fear negotiating and treat it more as a guessing game or blackjack table.

Culture Matters in Negotiations

Contract or relationship?

Leaders that have to negotiate agreements for various services and terms, from different organizational cultures or styles, may tend to view the purpose of a negotiation differently. For “deal makers” from some organizations or cultures, the goal of a business negotiation, first and foremost, is a signed contract between the parties. Leaders from other cultures tend to consider that the goal of a negotiation is not just a signed contract, but rather the creation of a longer range relationship between the two sides that guides the implementation of the agreement.

You cannot, however, advance your career or be a successful organ procurement organization if you avoid asking for precisely what you want or enter into negotiations without having a plan in place. With that in mind, here are five ways that you can become a more effective negotiator:

1. **Know exactly what you want**

Identifying what you want before entering negotiations gives you the ability to both visualize the outcome and avoid leaving the table with the feeling of selling yourself/your organization short.
Have an exact outcome in terms of service needed, quality to be assured, money to be agreed upon, amount, terms, etc. outlined on paper prior to meeting with the other party.

Once you identify your desired meeting goal, be prepared to ask for slightly more, allowing some “give-and-take” for your boss or board to ‘come down’ to your desired price. However, don’t be surprised if, using the next four tips, you actually walk away with more than your initial goal.

2. Understand the other party’s position

What are their needs, fears, aspirations, requirements and restrictions? Take the time to research the organization and/or person you’re meeting with and discover their surface needs, past negotiation outcomes, and what would make them look good. Remember that “price or cost” is not always the most important factor, contrary to what a board or boss may say.

See if you can offer what the competition cannot. Here is an example from a hotel sales person. Her primary competition for large corporate conventions were two hotels nearby. Her property had over fifty suites while each of the other hotels had less than fifteen. As a result, she would offer the meeting planners large quantities of complimentary upgrades for all of the company VIPs. Even offering a slightly higher room rate, she almost always got the business simply because the meeting planner jumped at the opportunity to look good by negotiating suites for company influencers. In the end, it wasn’t about negotiating the lowest price, but the best deal for the organization.

3. Know your value

What do you and your organization bring to the table? Are you offering unique quality, or convenience, or a revenue-generating service to another organization? If so, how much reputation, patient or payer satisfaction or money will they make as a result of securing your services? If you’re negotiating for a raise, understand if you’ve greatly outperformed past hires, making or saving the organization a significant amount of money. How much would it cost the
company to lose you, your services, or your reputational capital if they did not do the alliance, partnership or deal?

4. **Never accept less without gaining concessions**

While you may not walk away with the exact service, resource or money amount you envisioned, you can ensure that you leave with your desired ‘value.’ If you’re seeking a 7% raise, but your boss informs you that the best the company can offer is 5%, consider requesting the ability to work from home one day a week or an additional five paid vacation days per year. Figure out an alternative option that is worth that 2% for you. Accepting less without gaining something in return is the equivalent of stating that you are worth less than your initial ask.

5. **Be willing to walk away**

Know your bottom-line and always be willing to walk away. While this can be difficult when dealing with mission critical services or partnerships, or large pieces of potential business or even a dream job, it is imperative that you never enter negotiations without the option to walk away. This lessens the likelihood of the other party being able to use hard-ball tactics to back you into a corner. Also, there will be times when you will need to state that their offer is not sufficient, and you don’t think you’ll be able to do a deal. You may be surprised how often negotiations that seem to have broken down completely can be revived when the other party understands that you are not desperate, and that you have options.

In the Global Leadership Symposium, we will explore these strategies and others in small team exercises that we hope will be fun and informative.

*We are all learning together about this important leadership competency.*
## The Art of Negotiation

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<th>1</th>
<th>IMPLEMENTING STRATEGY</th>
<th>Get the Big Picture</th>
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<tr>
<td>AVOID</td>
<td>Assuming you have all the facts</td>
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<td>Assuming the other side is biased</td>
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<td>INSTEAD</td>
<td>Be curious: “Help me understand how you see the situation”</td>
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<td>Be humble: “What do I have wrong?”</td>
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<td>Be open-minded: “Is there another way to explain this?”</td>
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<th>2</th>
<th>IMPLEMENTING STRATEGY</th>
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<tr>
<td>AVOID</td>
<td>Making open-ended offers: What do you want?</td>
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<td>Making unilateral offers: I’ll be willing to…</td>
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<td></td>
<td>Simply agreeing to (or refusing) the other side’s demands</td>
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<td>INSTEAD</td>
<td>Ask “Why is that important to you?”</td>
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<td>Prepare solutions for critique: “Here’s a possibility—what might be wrong with it?”</td>
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<th>3</th>
<th>IMPLEMENTING STRATEGY</th>
<th>Elicit Genuine Buy-In</th>
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<tr>
<td>AVOID</td>
<td>Threats: “You’ll better agree, or else.”</td>
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<td>Arbitrariness: “I want it because I want it…”</td>
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<td></td>
<td>Close-mindedness: Under no circumstances will I agree to—or even consider—That proposal</td>
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<td>INSTEAD</td>
<td>Appeal to fairness: “What should we do?”</td>
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<td>Appeal to logic &amp; Legitimacy: “I think this makes sense because…”</td>
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<td>Consider constituent perspectives: “How can each of us explain this agreement to colleagues?”</td>
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<th>4</th>
<th>IMPLEMENTING STRATEGY</th>
<th>Build Trust First</th>
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<tr>
<td>AVOID</td>
<td>Trying to “buy” a good relationship</td>
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<td></td>
<td>Offering concession to repair breaches of trust, whether actual or only perceived</td>
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<td>INSTEAD</td>
<td>Explore how a break-down in trust may have occurred and how to remedy it</td>
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<td>Make concessions only if they compensate for losses owing to your non-performance or broken commitments</td>
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<td>Treat counterparts with respect, and act in ways that will command theirs</td>
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<th>5</th>
<th>IMPLEMENTING STRATEGY</th>
<th>Focus on Progress</th>
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<tr>
<td>AVOID</td>
<td>Acting without gauging how your actions will be perceived and what the response will be</td>
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<td></td>
<td>Ignoring the consequences of a given action for future as well current negotiations</td>
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<td>INSTEAD</td>
<td>Talk about issues and process: “We seem to be at an impasse; perhaps we should spend time exploring our respective objectives and constraints?”</td>
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<td>Slow down: “I’m not ready to agree, but I’d prefer not to walk away either. I think this warrants further exploration”</td>
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<td>Issue warnings without making threats: “Unless you’re willing to work with me toward a mutual acceptable outcome, I can’t afford to spend more time on this”</td>
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Resource 1: Stages of Negotiation

In order to achieve a desirable outcome from your negotiations, it may be useful to follow a structured approach to negotiation. For example, in a work situation a meeting may need to be arranged in which all parties involved can come together.

The process of negotiation includes the following stages:

1. Preparation
2. Discussion
3. Clarification of goals
4. Negotiate towards a Win-Win outcome
5. Agreement
6. Implementation of a course of action

1. Preparation

Before any negotiation takes place, a decision needs to be taken as to when and where a meeting will take place to discuss the opportunity/problem and who will attend. Setting a limited time-scale can also be helpful to prevent missing the opportunity, or the disagreement continuing.

This stage involves ensuring all the pertinent facts of the situation are known in order to clarify your own position. This would include knowing the ‘rules’ of your organisation, to whom help is given, when help is not felt appropriate and the grounds for such refusals. Your organisation may well have policies to which you can refer in preparation for the negotiation.

Undertaking preparation before discussing the opportunity/disagreement will help to avoid further conflict and unnecessarily wasting time during the meeting.

2. Discussion

During this stage, individuals or members of each side put forward the case as they see it, i.e. their understanding of the situation.
Key skills during this stage include questioning, listening and clarifying.

Sometimes it is helpful to take notes during the discussion stage to record all points put forward in case there is need for further clarification. It is extremely important to listen, as when disagreement takes place it is easy to make the mistake of saying too much and listening too little. Each side should have an equal opportunity to present their case.

3. Clarifying Goals

From the discussion, the goals, interests and viewpoints of both sides of the disagreement need to be clarified.

It is helpful to list these factors in order of priority. Through this clarification it is often possible to identify or establish some common ground. Clarification is an essential part of the negotiation process, without it misunderstandings are likely to occur which may cause problems and barriers to reaching a beneficial outcome.

4. Negotiate Towards a Win-Win Outcome

This stage focuses on what is termed a ‘win-win’ outcome where both sides feel they have gained something positive through the process of negotiation and both sides feel their point of view has been taken into consideration.

A win-win outcome is usually the best result. Although this may not always be possible, through negotiation, it should be the ultimate goal.

Suggestions of alternative strategies and compromises need to be considered at this point. Compromises are often positive alternatives which can often achieve greater benefit for all concerned compared to holding to the original positions.

5. Agreement

Agreement can be achieved once understanding of both sides’ viewpoints and interests have been considered.
It is essential to for everybody involved to keep an open mind in order to achieve an acceptable solution. Any agreement needs to be made perfectly clear so that both sides know what has been decided.

6. Implementing a Course of Action

From the agreement, a course of action has to be implemented to carry through the decision.

FAILURE TO AGREE
If the process of negotiation breaks down and agreement cannot be reached, then re-scheduling a further meeting is called for. This avoids all parties becoming embroiled in heated discussion or argument, which not only wastes time but can also damage future relationships.

At the subsequent meeting, the stages of negotiation should be repeated. Any new ideas or interests should be taken into account and the situation looked at afresh. At this stage it may also be helpful to look at other alternative solutions and/or bring in another person to mediate.

Informal Negotiation

There are times when there is a need to negotiate more informally. At such times, when a difference of opinion arises, it might not be possible or appropriate to go through the stages set out above in a formal manner.

Nevertheless, remembering the key points in the stages of formal negotiation may be very helpful in a variety of informal situations.

How might your work for organ procurement benefit from this staged approach to plan and do your negotiations?
In any negotiation, the following three elements build “**Negotiation Competency**” and are likely to affect the ultimate outcome of the negotiation:

1. Attitudes
2. Knowledge
3. Interpersonal Skills

**Attitudes**

All negotiation is strongly influenced by underlying attitudes to the process itself, for example attitudes to the issues and personalities involved in the particular case or attitudes linked to personal needs for recognition.

Always be aware that:

- Negotiation is not an arena for the realisation of individual achievements.
- There can be resentment of the need to negotiate by those in authority.
- Certain features of negotiation may influence a person’s behaviour, for example some people may become defensive.

**Knowledge**

The more knowledge you possess of the issues in question, the greater your participation in the process of negotiation. In other words, good preparation is essential.

Do your homework and gather as much information about the issues as you can.

Furthermore, the way issues are negotiated must be understood as negotiating will require different methods in different situations.
Interpersonal Skills

Good interpersonal skills are essential for effective negotiations, both in formal situations and in less formal or one-to-one negotiations.

These skills include:

- Listening.
- Reducing misunderstandings.
- Rapport Building.
- Problem Solving.
- Decision Making.
- Assertiveness.
- Dealing with Difficult Situations.
Resource 2: Essential Rules of Negotiation

For your OPO consideration, we have adapted practical insights from the high-profile, US sports agent Leigh Steinberg’s essential rules of negotiation featured in his book *Winning with Integrity: Getting What You Want without Selling Your Soul*.

**Essential Rules of Negotiation**

1. **“Learn all you can about the other party.”**
   This is applicable not only to who you face in the negotiation as individuals, but also to the organization you hope to work with, such as individual donors, transplant center leaders, policy makers or the Ministry of Health. You also need to consider potential contract terms you might face and have objections to.

2. **“Convince the other party that you have an option.”**
   If they’re not sure you’re capable of delivering on your part of the agreement, convey past successes (without appearing to boast), working relationships with other parties they may have worked with in the past, or your track record with a challenging situation.

3. **“Set your limits before the negotiation begins.”**
   Negotiations that are too quick can be a possible risk, but those that are too long and drawn out can be risky as well. You don’t want to look back at a multipart negotiation and realize that you’d never have agreed to the deal had you not been incrementally moved to the point you are at now.

4. **“Establish a climate of cooperation, not conflict.”**
   Begin by engaging the potential collaborator or resource provider about the ultimate value to patients and their families —let them know that you’re interested in the big picture, are excited to talk through some ideas you have, and so on. If conflict is going to come in the form of “take it or leave it” contract language, it’s going to come. Further, there may be a dozen clauses, three that just need clarification and two with potential deal-breaker points in them. Resolve the first three first — getting repeated “yes, that’s fine” answers to your requests will make resolving the
final two problematic clauses easier when you are operating from the initial spirit of cooperation instead of starting with conflict out of the box.

5. “In the face of intimidation, show no fear.”
When faced with “Other parties have agreed to these terms…,” Be prepared to think, “Well, why are you calling me then?” or, “I’m not every other provider,” but of course, avoid those smart-aleck remarks from actually passing your lips. Yet it’s a mindset that can drive a more reasonable dialogue with the other party. Try responding with, “It has been my experience that signing contracts with those terms isn’t conducive to a good working relationship, and it is against our policy without reasonable modifications to it.”

6. “Learn to listen.”
Although this might seem obvious, pay attention to what the other party is saying, rather than preparing your next objection. You will find many a creative solution by listening to what people are saying and offering a solution that meets their needs and uses their words.

7. “Be comfortable with silence.”
If you make an offer or respond to the client’s request for a concession, and then there is silence, do not speak just to fill the void. By doing so, you begin to negotiate with yourself because you feel that silence is non-acceptance of your offer or response.

8. “Emphasize your concessions; minimize the other party’s.”
Outline how you’ll cover the expenses without an advance, with a delay until payment upon service delivery, with an extended quality assurance package, and the like.

9. “Never push a losing argument to the end.”
You hope next time to deal with this person either at this organization or another down the line. If you know that they have payment arrangements that are always unreasonable, then don’t waste your time or their time. You can consider saying something nice such as, “I understand that’s your policy, and ours is counter to that. I hope that in the future it will change, or that should you find yourself at another organization down the line, you’ll consider calling on me when that term is not etched in stone.” This will let negotiator know that you’re a reasonable
person, and they will respect you for that. And lastly, when you object to a term and the session ends, there are times when the party will be calling back to offer you something better. Many situations may result in seeing the most egregious one first and the more equitable ones after you object to the first one.

10. “Develop relationships, not conquests.”

The community of people and organizations with whom you work is relatively small, and as you evolve your growth and performance, ensuring you’ve not burnt bridges or taken advantage of a partner’s circumstances will ensure your own longevity and respect among prospective groups and peers.
Resource 3: Getting Past Yes

Negotiate as if Implementation Mattered (Because it does)

Caution. Techniques that can help you seal a deal may end up disrupting the relationship when it’s time to put the deal into operation.

Health services leaders understand that many deals that were signed with optimism fall apart during implementation, despite the care and creativity with which their terms were crafted. The crux of the problem is that the very person everyone thinks is central to the deal—the negotiator—is often the one who undermines the partnership’s ability to succeed. The real challenge lies not in hammering out little victories on the way to signing on the dotted line but in designing a deal that works in practice.

People who view the contract as the conclusion and see themselves as solely responsible for getting there behave very differently from those who see the agreement as just the beginning and believe their role is to ensure that the parties involved actually realize the value they are trying to create. These two camps have conflicting opinions about the use of surprise and the sharing of information. They also differ in how much attention they pay to whether the parties’ commitments are realistic, whether their stakeholders are sufficiently aligned, and whether those who must implement the deal can establish a suitable working relationship with one another.

For a comparison of how different mind-sets affect negotiation behaviors, see the exhibit “Deal-Minded Negotiators Versus Implementation-Minded Negotiators.”

As you review this chart, consider how it can be applied to the OPO community in your Country or State.
# The Art of Negotiation

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<thead>
<tr>
<th>Deal-Minded Negotiators</th>
<th>Versus</th>
<th>Implementation-Minded Negotiators</th>
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<td><strong>Assumption</strong></td>
<td><strong>Behaviors</strong></td>
<td><strong>Negotiation Tactics</strong></td>
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<tr>
<td>“Surprising them helps me. They may commit to something they might not have otherwise, and we’ll get a better deal.”</td>
<td>Introduce new actors or information at strategic points in negotiation. Raise new issues at the end.</td>
<td><strong>Surprise</strong></td>
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<td><strong>Assumption</strong></td>
<td><strong>Behaviors</strong></td>
<td><strong>Negotiation Tactics</strong></td>
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<td>“It’s not my role to equip them with relevant information or to correct their misconceptions.”</td>
<td>Withhold information. Fail to correct mistaken impressions.</td>
<td><strong>Information sharing</strong></td>
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<tr>
<td><strong>Assumption</strong></td>
<td><strong>Behaviors</strong></td>
<td><strong>Negotiation Tactics</strong></td>
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<td>“My job is to get the deal closed. It’s worth putting a little pressure on them now and coping with their unhappiness later.”</td>
<td>Create artificial deadlines. Threaten escalation. Make “this day only” offers.</td>
<td><strong>Closing techniques</strong></td>
</tr>
<tr>
<td><strong>Assumptions</strong></td>
<td><strong>Behaviors</strong></td>
<td><strong>Negotiation Tactics</strong></td>
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<td>“As long as they commit; that’s all that matters. Afterwards, it’s their problem if they don’t deliver.”</td>
<td>Focus on documenting commitments rather than on testing the practicality of those commitments. Rely on penalty clauses for protection.</td>
<td><strong>Realistic commitments</strong></td>
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<tr>
<td><strong>Assumption</strong></td>
<td><strong>Behaviors</strong></td>
<td><strong>Negotiation Tactics</strong></td>
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<td>“The fewer people involved in making this decision, the better and faster this will go.”</td>
<td>Limit participation in discussions to decision makers. Keep outsiders in the dark until it is too late for them to derail things.</td>
<td><strong>Decision making and stakeholders</strong></td>
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A New Mind-Set

Five approaches can help your negotiating team transition from a deal maker mentality to an implementation mind-set.

1. **Start with the end in mind.** Imagine the deal 12 months out: What has gone wrong? How do you know if it’s a success? Who should have been involved earlier?

2. **Help them prepare, too.** Surprising the other side doesn’t make sense, because if they promise things they can’t deliver, you both lose.

3. **Treat alignment as a shared responsibility.** If your counterpart’s interests aren’t aligned, it’s your problem, too.

4. **Send one message.** Brief implementation teams on both sides of the deal together so everyone has the same information.

5. **Manage negotiation like a business process.** Combine a disciplined preparation process with postnegotiation reviews.

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**Idea in Brief**

Business leaders today report feeling that they must constantly negotiate to extract complex agreements from people with power over industries or individual careers. Sensing that they’re in continual danger makes them want to act fast, project control (even when they don’t have any), rely on coercion, and defuse tension at any cost.

The end result may be a compromise that fails to address the real problem or opportunity, increased resistance from the other side that makes agreement impossible, resentment that sours future negotiations, a failure to develop relationships based on mutual respect and trust, or an agreement that creates enormous exposure to future risk.

To avoid these dangers, executives can apply the same strategies used by well-trained military officers in hot spots like Afghanistan and Iraq. Those in extremis negotiators solicit others’ points of view, propose multiple solutions and invite their counterparts to critique them, use facts and principles of fairness to persuade the other side, systematically build trust and commitments over time, and take steps to reshape the negotiation process as well as the outcome.

Resource 4: Culture and Negotiations?

Organizations, professions, and countries have shared cultures (a common way of doing things or shared style of behaviors). The following text is designed to help you consider that the style of your negotiation process needs to be adapted for the style of the person or team with whom you are likely to be negotiating. We use research into cross-national behaviors to encourage you to reflect on the unique situation of the organization and the people with whom you may be entering into negotiations. The leaders who represent these cultures can be expected to show their organizational or profession’s culture in their negotiation style and preparation. Negotiating across these cultural membranes can be challenging and disruptive to your organization’s (or your career) success. It can also be problematic if you work across country cultures.

Culture profoundly influences how people think, communicate, and behave. It also affects the kinds of transactions they make and the way they negotiate them. Differences in culture between clinical and business executives—for example, between a transplant center’s Chief Medical Officer and an OPO provider relations manager—can create barriers that impede or completely stymie the negotiating process.

Internationally, the great diversity of the world’s cultures makes it impossible for any negotiator, no matter how skilled and experienced, to understand fully all the cultures that may be encountered. How then should an executive prepare to cope with culture in making deals in Singapore this week and Seoul the next? Jeswald Salacuse offers useful guidance in his book The Global Negotiator: Making, Managing, and Mending Deals Around the World in the Twenty-First Century (Palgrave Macmillan, 2003), He finds ten particular elements consistently arise to complicate intercultural negotiations. These “top ten” elements of negotiating behavior constitute a basic framework for identifying cultural differences that may arise during the negotiation process. This framework can be used not only in international business negotiations, but between organizations that have unique cultural dimensions so that you understand your counterpart better and to anticipate possible misunderstandings.

1. Negotiating goal: Contract or relationship?

Negotiators from different organizational and country cultures may tend to view the purpose of a negotiation differently. For deal makers from some cultures, the goal of a business negotiation, first and foremost, is a signed contract between the parties. Other cultures tend to consider that
the goal of a negotiation is not a signed contract but rather the creation of a relationship between the two sides. Although the written contact expresses the relationship, the essence of the deal is the relationship itself. For example, of over 400 persons from twelve nationalities, reported fully in The Global Negotiator, 74 percent of the Spanish respondents claimed their goal in a negotiation was a contract, only 33 percent of the Indian executives had a similar view. The difference in approach may explain why certain Asian negotiators, whose negotiating goal is often the creation of a relationship, tend to give more time and effort to negotiation preliminaries, while North Americans often want to rush through this first phase of deal making. The preliminaries of negotiation, in which the parties seek to get to know one another thoroughly, are a crucial foundation for a good business relationship. They may seem less important when the goal is merely a contract.

It is therefore important to determine how your counterparts view the purpose of your negotiation. If relationship negotiators sit on the other side of the table, merely convincing them of your ability to deliver on a low-cost contract may not be enough to land you the deal. You may also have to persuade them, from the very first meeting, that your two organizations have the potential to build a rewarding relationship over the long term. On the other hand, if the other side is basically a contract deal maker, trying to build a relationship may be a waste of time and energy.

2. Negotiating attitude: Win-Lose or Win-Win?

Because of differences in style, culture or personality, some business persons appear to approach deal making with one of two basic attitudes: that a negotiation is either a process in which both can gain (win-win) or a struggle in which, of necessity, one side wins and the other side loses (win-lose). Win-win negotiators see deal making as a collaborative, problem-solving process; win-lose negotiators view it as confrontational. As you enter negotiations, it is important to know which type of negotiator is sitting across the table from you. For example, whereas 100 percent of the Japanese respondents claimed that they approached negotiations as a win-win process, only 33% of the Spanish executives took that view.

In your OPO situation, what style of agreements are you most likely to see?
3. Personal style: Informal or formal?

Personal style concerns the way a negotiator talks to others, uses titles, dresses, speaks, and interacts with other persons. Culture strongly influences the personal style of negotiators. It has been observed, for example, that Germans have a more formal style than Americans. A negotiator with a formal style insists on addressing counterparts by their titles, avoids personal anecdotes, and refrains from questions touching on the private or family life of members of the other negotiating team. A negotiator with an informal style tries to start the discussion on a first-name basis, quickly seeks to develop a personal, friendly relationship with the other team, and may take off his jacket and roll up his sleeves when deal making begins in earnest. Each culture has its own formalities with their own special meanings. They are another means of communication among the persons sharing that culture, another form of adhesive that binds them together as a community. For an American, calling someone by the first name is an act of friendship and therefore a good thing. For a Japanese, the use of the first name at a first meeting is an act of disrespect and therefore bad. Negotiators in foreign cultures must respect appropriate formalities. As a general rule, it is always safer to adopt a formal posture and move to an informal stance, if the situation warrants it, than to assume an informal style too quickly.

4. Communication: Direct or indirect?

Methods of communication vary among cultures. Some emphasize direct and simple methods of communication; others rely heavily on indirect and complex methods. The latter may use circumlocutions, figurative forms of speech, facial expressions, gestures and other kinds of body language. In a culture that values directness, such as the American or the Israeli, you can expect to receive a clear and definite response to your proposals and questions. In cultures that rely on indirect communication, such as the Japanese, reaction to your proposals may be gained by interpreting seemingly vague comments, gestures, and other signs. What you will not receive at a first meeting is a definite commitment or rejection.

The confrontation of these styles of communication in the same negotiation can lead to friction. For example, the indirect ways Japanese negotiators express disapproval have often led foreign business executives to believe that their proposals were still under consideration when in fact the Japanese side had rejected them. In the Camp David negotiations that led to a peace treaty between Egypt and Israel, the Israeli preference for direct forms of communication and the Egyptian tendency to favor indirect forms sometimes exacerbated relations between the two sides. The Egyptians interpreted Israeli directness as aggressiveness and, therefore, an insult. The Israelis viewed Egyptian indirectness with impatience and suspected them of insincerity, of not saying what they meant.
5. Sensitivity to time: High or low?

Discussions of national negotiating styles invariably treat a particular culture’s attitudes toward time. It is said that Germans are always punctual, Latins are habitually late, Japanese negotiate slowly, and Americans are quick to make a deal. Commentators sometimes claim that some cultures value time more than others, but this observation may not be an accurate characterization of the situation. Rather, negotiators may value differently the amount of time devoted to and measured against the goal pursued. For Americans, the deal is a signed contract and time is money, so they want to make a deal quickly. Americans therefore try to reduce formalities to a minimum and get down to business quickly. Japanese and other Asians, whose goal is to create a relationship rather than simply sign a contract, need to invest time in the negotiating process so that the parties can get to know one another well and determine whether they wish to embark on a long-term relationship. They may consider aggressive attempts to shorten the negotiating time as efforts to hide something.

6. Emotionalism: High or low?

Accounts of negotiating behavior among cultures almost always point to a particular group’s tendency to act with varying degrees of emotionally. According to the stereotype, Latin Americans show their emotions at the negotiating table, while the Japanese and many other Asians hide their feelings. Obviously, individual personality plays a role here. There are passive Latins and hot-headed Japanese. Nonetheless, various cultures have different rules as to the appropriateness and form of displaying emotions, and these rules are brought to the negotiating table as well. Deal makers should seek to learn them.

In the author’s survey, Latin Americans and the Spanish were the cultural groups that ranked themselves highest with respect to emotionalism in a clearly statistically significant fashion. Among Europeans, the Germans and English ranked as least emotional, while among Asians the Japanese held that position, but to a lesser degree.

When preparing for work with donors, transplant centers or politicians, how should you take into consideration their unique styles?
7. Form of agreement: General or specific?

Whether a negotiator’s goal is a contract or a relationship, the negotiated transaction in almost all cases will be encapsulated in some sort of written agreement. Cultural factors influence the form of the written agreement that the parties make. Generally, Americans prefer very detailed contracts that attempt to anticipate all possible circumstances and eventualities, no matter how unlikely. Why? Because the deal is the contract itself, and one must refer to the contract to handle new situations that may arise. Other cultures, such as the Chinese, prefer a contract in the form of general principles rather than detailed rules. Why? Because, it is claimed, that the essence of the deal is the relationship between the parties. If unexpected circumstances arise, the parties should look primarily to their relationship, not the contract, to solve the problem. So, in some cases, a Chinese negotiator may interpret the American drive to stipulate all contingencies as evidence of a lack of confidence in the stability of the underlying relationship.

Some experienced executives argue that differences over the form of an agreement are caused more by unequal bargaining power between the parties than by culture. In a situation of unequal bargaining power, the stronger party always seeks a detailed agreement to “lock up the deal” in all its possible dimensions, while the weaker party prefers a general agreement to give it room to “wiggle out” of adverse circumstances that are bound to occur. According to this view, it is context, not culture that determines this negotiating trait.

8. Building an agreement: Bottom up or top down?

Related to the form of the agreement is the question of whether negotiating a business deal is an inductive or a deductive process. Does it start from an agreement on general principles and proceed to specific items, or does it begin with an agreement on specifics, such as price, delivery date, and product quality, the sum total of which becomes the contract? Different cultures tend to emphasize one approach over the other. Some observers believe that the French prefer to begin with agreement on general principles, while Americans tend to seek agreement first on specifics. For Americans, negotiating a deal is basically making a series of compromises and trade-offs on a long list of particulars. For the French, the essence is to agree on basic principles that will guide and indeed determine the negotiation process afterward. The agreed-upon general principles become the framework, the skeleton, upon which the contract is built.

The French, the Argentineans, and the Indians tended to view deal making as a top down (deductive process); while the Japanese, the Mexicans and the Brazilians tended to see it as a bottom up (inductive) process. A further difference in negotiating style is seen in the dichotomy between the “building-down” approach and the “building-up approach.” In the building down
approach, the negotiator begins by presenting the maximum deal if the other side accepts all the stated conditions. In the building-up approach, one side begins by proposing a minimum deal that can be broadened and increased as the other party accepts additional conditions. According to many observers, Americans tend to favor the building-down approach, while the Japanese tend to prefer the building-up style of negotiating a contract.

How might these differences appear in your OPO realities?

9. Team organization: One leader or group consensus?

In any negotiation, it is important to know how the other side is organized, who has the authority to make commitments, and how decisions are made. Culture is one important factor that affects how executives organize themselves to negotiate a deal. Some cultures emphasize the individual while others stress the group. These values may influence the organization of each side in a negotiation.

One extreme is the negotiating team with a supreme leader who has complete authority to decide all matters. Many American teams tend to follow this approach. Other cultures, notably the Japanese and the Chinese, stress team negotiation and consensus decision making. When you negotiate with such a team, it may not be apparent who the leader is and who has the authority to commit the side. In the first type, the negotiating team is usually small; in the second it is often large. For example, in negotiations in China on a major deal, it would not be uncommon for the Americans to arrive at the table with three people and for the Chinese to show up with ten. Similarly, the one-leader team is usually prepared to make commitments more quickly than a negotiating team organized on the basis of consensus. As a result, the consensus type of organization usually takes more time to negotiate a deal.

A consensual arrangement in the individual French person’s eyes can be the best way to protect a desire for individualism. Despite the Japanese reputation for consensus arrangements, only 45 percent of the Japanese respondents claimed to prefer a negotiating team based on
consensus. The Brazilians, the Chinese, and the Mexicans to a far greater degree than any other groups preferred one-person leadership, a reflection perhaps of the political traditions of those countries.

10. Risk Taking: High or Low?

Research supports the conclusion that certain cultures are more risk averse than others. (Geert Hofstede, *Culture’s Consequences: International Differences in Work-related Values* (Newbury Park, CA: Sage Publications, 1980).

In deal making, the negotiators’ cultures can affect the willingness of one side to take risks— to divulge information, try new approaches, and tolerate uncertainties in a proposed course of action. The Japanese, with their emphasis on requiring large amount of information and their intricate group decision-making process, tend to be risk averse. Americans, by comparison, are risk takers.

Among all respondents in the author’s survey, approximately 70 percent claimed a tendency toward risk taking while only 30 percent characterized themselves as low risk takers. Among cultures, the responses to this question showed significant variations. The Japanese are said to be highly risk averse in negotiations, and this tendency was affirmed by the survey which found Japanese respondents to be the most risk averse of the twelve cultures. Americans in the survey, by comparison, considered themselves to be risk takers, but an even higher percentage of the French, the British, and the Indians claimed to be risk takers.

Faced with a risk-averse counterpart, how should a negotiator proceed? The following are a few steps to consider:

1. Don’t rush the negotiating process. A negotiation that is moving too fast for one of the parties only heightens that person’s perception of the risks in the proposed deal.

2. Devote attention to proposing rules and mechanisms that will reduce the apparent risks in the deal for the other side.

3. Make sure that your counterpart has sufficient information about you, your company, and the proposed deal.

4. Focus your efforts on building a relationship and fostering trust between the parties.

5. Consider restructuring the deal so that the deal proceeds step by step in a series of increments, rather than all at once.
Negotiating styles, like personalities, have a wide range of variation. The ten negotiating traits discussed above can be placed on a spectrum or continuum, as illustrated in the chart below. Its purpose is to identify specific negotiating traits affected by culture and to show the possible variation that each trait or factor may take. With this knowledge, you may be better able to understand the negotiating styles and approaches of counterparts from other organizational and other cultures. Equally important, it may help you to determine how your own negotiating style appears to those same counterparts.

![The Impact of Culture on Negotiation](chart)

See: Jeswald W. Salacuse

Thank you for all you do to save and prolong lives in your countries and communities.