



# Effective Negotiation by Design

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DIFFERENT WORKS

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# Course Description

“

Like it or not, you are a negotiator.  
Negotiation is a fact of life.

- Roger Fisher and William Uri, *Getting to Yes*

”

Every design professional, from the new college graduate to the seasoned professional running their own project or firm, can benefit from being a better negotiator. This course will consider different negotiation techniques design professionals can use to achieve a more successful outcome for their firm, and discuss how the negotiation process can be used for more effective client selection.

# Learning Objectives

## Participants in this session will:

- 1 Learn key steps to preparing for a negotiation;
- 2 Address common concerns that impede design professionals from negotiating effectively;
- 3 Study techniques that can impact a design professional's success in negotiating professional services contracts; and
- 4 Discuss warning signs in the negotiation process to consider prior to taking on a new client.

# Definition

## Negotiation

As defined by the Business Dictionary

A bargaining process between two or more parties (each with its own aims, needs, and viewpoints) seeking to discover common ground and reach an agreement...





# Styles of Negotiation



Soft Negotiation	Hard Negotiation	Principled Negotiation
Participants are friends	Participants are adversaries	Participants are problem solvers
The goal is agreement	The goal is victory	The goal is a wise outcome reached efficiently and amicably
Make concessions to cultivate relationships	Demand concessions to as the price of the relationship	Separate people from the problem
Accept one-sided losses to reach agreement	Accept one-sided losses to reach agreement	Focus on interests, not positions and create options for mutual gain
Insist on agreement, yield to get it	Insist on your position, apply pressure to get it	Insist on using objective criteria, yield only to principle

# Four Keys of Principled Negotiation

- 1 Separate the people from the problem**  
Separate emotions and personal biases from the negotiation.
- 2 Focus on interests, not positions**  
Focus on what you want, not what you say or think you want.
- 3 Invent options for mutual gain**  
Think of innovative solutions that allow for mutual gain.
- 4 Use objective criteria**  
Use objective criteria to weed out unreasonable requests.

# Separate the People from the Problem



## Put yourself in their shoes.

Remember, negotiators are people, with emotions, values, experiences and personal biases, all of which can affect rational thought, perception, and detract from the substantive issues being negotiated.

# Focus on Interests, Not Positions

## Practice active-listening.

Don't just ask for the other parties' positions, find out why they're taking those positions. Interests are what the parties want, positions are how the parties determine they'll get what they want. Often there are ways to meet the parties interests, different from the position first identified.



# Invent Options for Mutual Gain



## Get Creative to create value.

Brainstorm and collaborate to find innovative ways for both parties to get what they want. When there is a roadblock, stress the “we” over the “I”.

# Use Objective Criteria

Find objective criteria to help weed out unreasonable asks.

Seek objective, sometimes outside guidance, to determine what a “fair” agreement might look like (i.e.: building code standards or industry standard documents such as those drafted by the American Institute of Architects).



# 5 Steps of Negotiations

When negotiating, remember to keep your eye on the P.R.I.Z.E.

**P**

## Prepare

Gather facts and information to develop negotiation strategies and priorities.

**R**

## Relate

Build rapport.

**I**

## Inquire

Obtain the other party's information through effective questioning and active listening.

**Z**

## Zig-zag

Make the first offer, collaborate, negotiate, and persuade.

**E**

## End

Bring ideas to a mutually agreed conclusion and formalize it in an agreement.

# Prepare

Plan for the negotiation.



## Research

Research the other party – their business, the project, and any potential red-flags.

## Identify

Identify goals, priorities, and expectations for the project – the Client's as well as your own.

## Alternatives

Have a strategy. Know where you're willing to make compromises and what your deal breakers are.

# Relate

Set a friendly tone for the negotiation process to build rapport, trust, and respect.



## Chitchat

Start the negotiations by making small talk. Don't rush to the substance.

## Face Time

Where at all possible, try to conduct negotiations face-to-face, rather than via email or fax.

# Inquire

Engage in effective questioning and active listening.

## Question

Ask questions to better understand the other party – don't just ask what they want, ask why do they want it?

1. **Use open-ended questions for fact gathering** (“what basis did you use to calculate price?”)
2. **Use open-opportunity questions to assess the other party's views** (“how does that approach sound?”)
3. **Use leading questions to influence the outcome** (“don't you think that's a fair allocation?”)



# Zig-Zag

Negotiation is all about the back and forth.



## Offer

Negotiators who make the first offer tend to come out ahead, by establishing the zone of negotiation.

## Brainstorm, Collaborate

Find innovative ways to enlarge the pie by creating mutually beneficial solutions.

## Objective Criteria

Use objective criteria – it provides a fair way to determine the reasonableness of any conditions.

# End

Memorialize the agreement with a written contract.

“

By all means, shake hands on a deal, but then make sure to ask your lawyers to record the details. It could be the best bill you ever pay!

- Richard Branson

”

# Hypothetical – The Problem



Design Professional shall apply for and obtain all required permits or approvals required for the Project.



Your Client is insisting that the following language to be included in your service agreement. What do you do?

# Hypothetical – P.R.I.Z.E

## Research

### Client:

- Why is the Client insisting on this term?

### Issues:

- What are the risks?
- What is industry standard?

“Design professional shall assist the Owner in connection with the Owner’s responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.”

AIA B101-2017 § 3.1.6

## Identify

### Client’s priorities:

- Not having to deal with bureaucracy and additional paperwork.

### Your priorities:

- Minimize the risk of  
(1) added cost;  
(2) added risk\*

\* for instance, permits and other approvals are contingent on factors outside of your control; as such promising to “obtain” them may constitute an uninsurable, contractually assumed liability.

## Alternatives

 Have the Contractor assume responsibility for the permits.

 Strike the word “obtain” from the proposed language and ensure reimbursement for permit-related costs.

 Accept on terms favorable to you.\*

\*such as an acknowledgement, release and/or indemnity OR trade concessions.

# Knowing When to Walk Away

Did the negotiation process raise any “red-flags” about working with the client or the Project?

“

Sometimes the smartest thing to do,  
is to walk away from the deal

”

- Strogoff Consulting

# BATNA

Generally, if your BATNA is stronger than the negotiated deal, walk away. If not, close the deal.

## BATNA

‘BATNA’ stands for “best alternative to a negotiated agreement”

### Client’s BATNA

Identifying your Client’s BATNA can help you determine their “walk away” point.

### Your BATNA

Identifying your BATNA can help you determine your “walk away” point.

### Improve Your BATNA

The stronger your BATNA, the more you can comfortably ask for in a negotiation.

# Recognizing Red Flags

Use RLI's Go-No-Go Matrix to help you identify, assess, mitigate, and control your project risk.

1

## Identify

What are the risks?

2

## Assess

How risky is the project overall? Where do the riskier issues lie?

3

## Mitigate

What is your mitigation strategy for each issue or higher risk issues?

4

## Control

Are your risk mitigation strategies working or should they be modified?

# Go-No-Go Matrix

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Business Insurance Personal Insurance Surety For Our Producers

Click here to access RLI's

Go No-Go Matrix



DESIGN PROFESSIONALS RESOURCES

RISK MANAGEMENT

ENROLLMENT FORM

DESIGN PROFESSIONALS LEARNING EVENTS (DPLE)

DPLE COURSES

CONTACT DESIGN PROFESSIONALS

## Design Professionals Risk Management

Every A&E business faces risks, and they can never be entirely prevented. They can, however, be minimized through risk management programs. Our goal is to help you reduce the likelihood of losses resulting from most risks design professionals face.

### Risk Management Programs

#### DPLE SERIES

Our continuing education program provides the education resources design firms need. The DPLE series offers more than 125 courses that have been approved by the AIA for continuing education learning units. Learn more about our [DPLE Series](#).

### PROJECT MANAGEMENT

This program includes a dynamic [project risk management matrix](#) and to help A&E firms effectively identify, assess, manage and control the risks associated with the projects they engage in. Guidelines for using the matrix and additional risk management best practices are provided in the project [risk management matrix instruction guide](#).

Our experts are here to answer your

Visit <https://www.rlicorp.com/dp-risk-management>

# RLI Procedure for Premium Credit

You can reduce your risk AND save money!

Conduct a project risk analysis before you submit a proposal, give it to your broker as part of our renewal package, and earn premium credit. It's as easy as 1-2-3!

- 1** Access online
- 2** Submit as part of renewal
- 3** Receive credit at renewal

# Take Away

“

Negotiation isn't about conceding,  
it's about creating.

- Jeff Weiss, *Vantage Partners* (2015)

”

When negotiating, keep your eye on the P.R.I.Z.E (prepare, relate, inquire, zig zag, end). As you're going thru each of these steps, remember to incorporate the principles of principled negotiation – (1) separate the people from the problem; (2) focus on interests, not positions; (3) invent options for mutual gain; and (4) use objective criteria.

Thank you for your time!

# QUESTIONS?

**This concludes The American Institute of Architects  
Continuing Education Systems Program**

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