

# NEGOTIATION

## Contract Management

Getting to the Right Agreements throughout the contract lifecycle

Updated for 2020.  
New Construction Scenarios.

*“You don’t get what you think you deserve,  
you get what you negotiate.”*



**Stalemate! What next?**

### Negotiating Throughout the Contract Management Lifecycle

This is an intensive **practical workshop**. Contemporary theories will be covered, but our focus is on practising them.

Our robust negotiation model focuses on co-creating an agreement that is a quantum beyond the starting point of the negotiation. For learning purposes, we focus our practice exercises on the recurring and confronting construction contract management issues:

- ▶ variations and latent conditions
- ▶ extensions of time (EOT's)
- ▶ defective work and
- ▶ other issues that the active participants bring to the floor.

An essential part of the course is learning the art of proposing. Our approach is not purely aimed at “win-win”, although we typically achieve “win-win plus” results.

### Negotiation is a daily process

We negotiate throughout every day at work and at home and whether we are consciously aware of it or not. And the principles of negotiation remain the same throughout all these negotiations. During this course we will focus on negotiating during the seemingly confronting construction contract management lifecycle. The principles of negotiation we will present to you will provide you with an all-purpose strategy that you can use in any situation.

### The Mindful Contract Negotiator

Being continually mindful of your total environment is our starting point. **Mindfulness**, **strategic intelligence** and **disciplined research** are some of our mantras. We will work on this discipline during the whole course and focus our exercises on understanding:

- ▶ the different negotiation strategies, techniques and styles and when to use them (developing your negotiation toolbox)
- ▶ the negotiation strategies adopted by the other party and how to optimally interact with them
- ▶ your place in your organisation and your delegations of authority (what decisions you can really make?)
- ▶ your key internal and external stakeholders (on whose behalf are you negotiating and making decisions?)





**"A negotiator should observe everything. You must be part Sherlock Holmes, part Sigmund Freud."**

**– Victor Kiam**

- ▶ your Suppliers or Contractors and Subcontractors (for Principal) and why they are at your table
- ▶ your Principal (for Suppliers) or your subcontractors and why they are at your table
- ▶ that you will always be preparing for negotiations

### **The Complete Negotiator**

Our premise is that you are always negotiating throughout all aspects of your life. This course will prepare you for all of these negotiations by using examples from everyday life and the tougher contract management negotiation scenarios. We embrace conflict, adversity and uncertainty. Our challenge is not to eliminate conflict but to transform it.

The words that you project onto the other party are only one aspect of negotiation. It all starts with preparation and strategically planning, including all those internal negotiations within your organisation before you begin your external negotiations.

We do not deny our emotions during our negotiations. We will show you ways of managing them and using them to energise your negotiations.

We emphasise the art of active listening as much as the discipline of choosing the right words. Combine this with strategically supporting your communications with using the right body language and understanding the body language of the other parties and we are working towards a complete negotiator.

### **Negotiating throughout the Construction Contract Life Cycle**

#### *And throughout your work and life*

The Construction Contract Life Cycle starts many months before the actual construction works begin. Negotiations also start at this early stage. Business cases are developed, business cases are prioritised, business cases are selected and rejected, budgets are negotiated, project plans are written, project teams are selected, and the dates are set, and not necessarily in that order. During this course, our negotiation case studies and practice exercises will start at the tendering stage and work through to the post-implementation reviews. However, we must be mindful of all the negotiations and their outcomes that have happened prior to our starting points and all those negotiations that are happening in parallel to our current negotiations.

#### *Negotiating during the Tendering Process*

During this session we discuss the context of the tendering process and what can be negotiated and when, and the consequences of these negotiations. The process agreements made during the tendering process will be exposed and how to best work within these frameworks discussed.

What can you negotiate during the tender interviews?

#### *Initiation Meetings and Briefings*

What information needs to be provided and by whom? What is the best way of approaching these interviews from both parties' perspectives?



**"Good negotiators, going in, know they have to be ready for possible surprises;**

**Great negotiators aim to use their skills to reveal the surprises they are certain exist."**

**– Chris Voss (FBI Negotiator)**

### *Variations*

Is that a variation or part of the signed contract? This will be the true acid test to your developing negotiation skills especially in the construction arena. We will begin by understanding the parameters within which we can plan and conduct our negotiations.

We will work through some role play negotiation exercises that are focussed on the Superintendent (and equivalent roles). These will cover areas such as the Contractor advising the Superintendent about variations and negotiating the possibility of a variation and its pricing. Latent conditions will also be discussed.

### *Extensions of Time (EOT's)*

Just as variations will happen during construction, so will delays. How can we best handle them from both sides of the contract? We begin by understanding the contract conditions that allow for EOT's. Next we will work through a number of scenarios highlighting the elements of EOT's that can be negotiated and how to best approach each situation from both sides of the Contract. We will also work through a concurrent delays scenario.

### *Defective Work*

Is that defective work? What should each party do when they discover defective work? What decisions are available to each party when defective work is discovered? How do we handle voluntary and involuntary acceptance of defective work? What can be negotiated and then how to best negotiate it?

### **Key Benefits of this Course**

- ▶ Know that you are always negotiating, even when you don't think you are negotiating.
- ▶ Understand the process of negotiation.
- ▶ Understand the different types of negotiation strategies and when to best use them.
- ▶ Understand how to negotiate with difficult people.
- ▶ Understand the art of placing yourself in the other person's shoes to achieve optimal results.
- ▶ Practise to learn the different negotiation strategies with the other participants. This course is all about practice.
- ▶ Understand that you must practise your negotiation skills and reflect on your negotiations for you to achieve real results.
- ▶ Discuss ways you can transfer your learnings to your workplace. We will provide you with exercises and strategies that you can take back to your workplace.

### **Who Should Attend**

*We invite professionals from both sides of the contract.*

- ▶ Contract Managers, Contract Administrators, Project Managers
- ▶ Program and Project Directors
- ▶ Directors, General Managers, Managers and Team Leaders





### Facilitator — Nicholas Romas

- ▶ Over 30 years' experience in the IT and construction industries as a professional negotiator and mentor, project and contract practitioner and teacher, developer and deliverer of end-to-end project management systems, and who always embraces uncertainty.  
**Business and project troubleshooter.**
- ▶ Consultant to national and international water industry for over 25 years. Customers included: Melbourne Water, SA Water, Sydney Water, Indah Water (Malaysia), City West Water, Yarra Valley Water, South East Water, Portland Coast Water (now Wannon Water), GWM Water, Department of Water Resources, and Department of Biodiversity, Conservation and Attractions (DBCA).
- ▶ Other customers: Telstra, Rio Tinto, Kemcor, Incitec Pivot Ltd, Kodak, Department of Health, Deakin University, Commonwealth Bank, Unisys, BIS, Coles Myer, UMD, PNG National Government and Autonomous Bougainville Government (ABG).
- ▶ Lecturer in Contract, Project, Risk Management, Negotiation and IT.
- ▶ Mentor in National Association of Women in Construction (NAWIC) and AIPM mentoring programs.
- ▶ Member of Australian Institute of Project Management (MAIPM).
- ▶ External member of La Trobe Institutional Biosafety Committee and La Trobe University Human Ethics Committee (LUHEC).

### Next Delivery of this Course

- ▶ Call us on +613 988 777 22 or +61 (0) 403 54 00 66 or visit us at [www.kiron.com.au](http://www.kiron.com.au) or email us at [nr@kiron.com.au](mailto:nr@kiron.com.au) to receive details of our next delivery of this course.
- ▶ We also provide **In-House delivery solutions**. Please call us for a proposal to customise and deliver this course to meet your organisation's requirements.

### Related Courses & Services

- ▶ **Construction Contract Management Intensive.**

**Totally complements this Negotiation course.**

Work through the AS 4000 in a structured way with comparisons to the AS 2124, AS 4902 and AS 4300 and references to JCC, PC1 and MW1. Totally updated for 2020 and more time for focussed discussions. **Over 1,000 participants to date.**

- ▶ **Negotiation for Executives - Mastering Leadership through Negotiation.** Advance your negotiation skills to better Close deals; Deal with difficult negotiators; Avoid time-consuming and costly disputes; Build bridges; Grow partnerships and Lead your organisation and teams through high performance collaboration.
- ▶ **Developing Female Executives - Guiding Women to reach the Top, Stay at the Top and Enjoy the Journey.** This is a highly interactive live-in program facilitated by our two highly experienced facilitators.



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