

Contract Negotiation Clinic: Gartner's Top 10 Tips, Tactics and Tricks to Enhance Your Negotiation Playbook

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Follow Gartner's Top Ten TTTs (Tips, Tactics, Tricks) ...

- 1 Use Cost Detail Checklists During RFQ and RFP Process
- 2 Ask Rather Than Attach Required Terms and Conditions (T&Cs)
- 3 Educate IT and Business Teams on Vendor Do's and Don'ts
- 4 Create a Competitive Environment for New Deals and Renewals
- 5 Enhance Your Detective Skills — Find Vendor Sales Motivators
- 6 Collaborate to Identify Vendor-Specific Negotiation Tactics
- 7 Use Financial Models for Cost Transparency and Leverage
- 8 Engage Stakeholders to Create Vendor-Specific T&Cs Wishlists
- 9 Be Aware of Vendor Ploys — Communicate Them to Be Ready!
- 10 Build a Final Negotiation Phase Into Your Strategy and Timeline

... As Your Roadmap to a Successful Negotiation!

1

Use Cost Detail Checklists During RFQ and RFP Process — Ask the *Right* Questions to Uncover Hidden Costs

Hardware	Software and SaaS	Maintenance/Support	Services and Training
? Purchase List and Net Price	? Fees List and Net Price	? Warranty Period and Expiration Date	? Options Fixed Price vs. T&M
? Shipping/Installation Included in Purchase Price?	? Type Perpetual/Subscription/ Term ...	? Options Provide All Coverage Types/Prices	? Roles/Levels Pricing for Each
? Features/Software Itemize and Price Separately	? Metric User vs. Processor vs. Revenue ...	? Descriptions For All Coverage Options	? Rates Blended vs. Role-Based
? Warranty How Long Is Warranty Period?	? Itemization Pricing by SKUs/Part Numbers/PIDs	? Itemization Pricing by SKUs/Part Numbers/ PIDs	? Acceptance Criteria Payment Upon Acceptance?
? Maintenance Annual and Prepay Options	? Policies Virtualization, DR/Test/Dev. Use ...	? Subscription vs. Support Provide Pricing for Each	? T&E Included in Price If Not, Not-to-Exceed Cost Limits
? Firmware Upgrades Included in Maintenance?	? Delivery Method On-Premises, Hosted, SaaS ...	? Discount Percentage Provide Percentage of Net Purchase	? Training Options On-Site, Remote, Online
? Leasing Options Provide Purchase and Lease Price Separately	? Add-On Capacity Licenses at Same Discount	? End-of-Term Price > Caps CPI or 3% (Whichever Is Less)	? Training Prices Descriptions for Each Option



Use Cost Detail Checklists During RFQ and RFP Process — Ask the Right Questions to Uncover Hidden Costs

Ensure RFP States the Following:

1. This Request Is a **Competitive Bid Offering**
2. **Failure to Respond** to Any Questions May Disqualify You From Competitive Negotiations
3. Responses to Questions Will Be One of the **Scoring Criteria** Used to Select Candidates for Competitive Negotiations
4. Responses Will Be Made Part of **Final Contract** as Binding and Agreed by Both Parties

2

Ask Rather Than Attach Required Terms and Conditions (T&Cs) — Open-Ended Questions Improve Your Negotiation Starting Position

What Are ...? How Does ...? Describe Your ...? Will you agree to ...? If no, explain why ...

On-Premises Software

- ✓ Metrics Defined — Counting Rules Illustrated by Example
- ✓ HA/DR/Test Use Rights Clear
- ✓ Maintenance Renewal Caps
- ✓ Audit Rights Clear Requiring NDAs
- ✓ Website Terms Printed and Attached
- ✓ Policies Defined Using Examples (e.g., Virtualization, Indirect Access)
- ✓ Hardware Technology Change Policy (e.g., Physical to Virtual)
- ✓ Bundling and Renaming Protection

[“Toolkit: Five-Step Process to Optimize Software License Contract Terms and Conditions”](#) (G00332678)

SaaS and Cloud

- ✓ Renewal Price Protection
- ✓ Meaningful SLA Penalties
- ✓ Clear Usage Rights to Allow Production, Test and Development
- ✓ URLs Attached and Referenced in Agreement (No Change During Term)
- ✓ Clear Data Privacy/Security Terms
- ✓ Support Clearly Defined (e.g., Bundled and Nonbundled, Basic vs. Premium)
- ✓ Cloud to On-Premises Re-entry Rights With Price Protection
- ✓ Exit Protection Provisions
- ✓ Cloud Migration Policies, GDPR

[“Toolkit: Minimize SaaS Risk and Cost by Efficiently Negotiating Optimal Contract Terms and Conditions”](#) (G00343601)

Outsourced/Managed Services

- ✓ MSA and SOW Services Clearly Defined
- ✓ Document Customer and Provider Asset Ownership (HW/SW) and Assignment
- ✓ Disentanglement Obligations — State Responsibilities, Period, Service Fees
- ✓ Termination, Default, Extension Rights
- ✓ Rights to Protect and Access Both Customer and Provider Data and Assets
- ✓ Rights for Both Parties to Hold Harmless and Indemnify Against Claims
- ✓ Clearly Documented Dispute Resolution Process for Performance Issues/Claims
- ✓ Third Party Software Asset Management and Compliance Responsibility

[“Outsourcing Contract Research Index — Contract Articles and Attachments”](#) (G00381459)

3

Educate IT and Business Teams on the “Do’s and Don’ts” of Vendor Engagements

1. No Vendor Social Events During Negotiations —
Diminishes Leverage and Shows Favoritism

2. Remind IT and Business of Roles During Negotiations —
Business and Technology Specs/Requirements **Only!**

3. Update and Enforce Security Guidelines/Policy —
Vendor Sign-In Policy and Restricted Access Badges

4. Review Meeting Protocol to Protect Confidential Data —
Everything Said During Vendor Engagements Has Impact

5. Differentiate Staff vs. Vendor Roles —
Remember Contractors and Consultants Are Also Vendors

6. Create and Socialize Meeting/Conference Room Policies —
Conference Room Doors Closed and Whiteboards Erased

Action Items:

1. *Develop an Internal Negotiation Policy — Communicate and Educate Organizationwide*
2. *Conduct Departmental Training Sessions to Explain What Should Be Treated as “Confidential”*
3. *Use Past Examples Illustrating the Weakened Negotiation Position When Key Information and Levers were Unknowingly Exposed*

4

Create a Competitive Environment for New Deals and Renewals — Competition Is Key for Bargaining Power

Competitors/Alternatives/Options Viability Checklist

- ✓ Who are viable competitors and what are their competitive products/services?
- ✓ Can you build vs. buy? If so, **you** become a competitor avoiding “sole source.”
- ✓ Are there open-source alternatives?
- ✓ Are there competitive replacement or alternative options for support renewals?
- ✓ Do you need to renew maintenance (analyze number of support calls, version needs)?
- ✓ Do viable third-party maintenance providers exist (e.g., hardware, network, software)?
- ✓ Is switching to a competitor’s solution viable for your organization (analyze cost/effort)?
- ✓ Are offshore/nearshore services available for lower cost solutions?

Action Items:

- 1. Engage IT to Research All Viable Alternatives, Replacements, and Competitors*
- 2. Create RFPs to Show Vendors You Are Serious*

5

Enhance Your Detective Skills — Find Out What Motivates and Incentivizes Your Vendor Sales Team

Are You More Highly Compensated
for Some Products and Services
than Others? Which Ones?

Are You Compensated for
Software Audit Settlements?
Can Escalation to Sales
Management Avoid an Audit?

When Do You Get Your Bonuses?
Monthly/Quarterly/
Year-End Big Bonus?

**Just
Ask!**

Are You Benefitted by
Multiyear Commitments?
How About Prepays?

How Are You Compensated?
Salary, Commission ... Both?
Do Quarter/Year-End “Special”
Incentives Exist? What Are They?

How Are You Compensated for
SaaS? Do Multiyear SaaS
Commitments Provide Better
Incentives/Compensation?

6

Collaborate to Identify Vendor-Specific Negotiation Tactics

Collaborate With IT and Key Stakeholders to Brainstorm Tactics

Delegate Team Responsibilities to Research Vendor-Specific Tactics

- **Create Vendor Scoring Matrix:**
 - Ask key questions about costs and terms — Tips 1 and 2
 - Scoring is qualifier to be selected for competitive negotiations
- **Track Key Dates — Quarter, Fiscal Half, Fiscal Year-End:**
 - Maintain a vendor fiscal-year-end database
- **Start Negotiations Early to “Test the Waters”:**
 - Develop Your Plan B
 - Be able to walk away
 - Multiyear contracts — Use mid-term for potential restructured deal
- **Monitor Vendors’ Quarterly Financial Results:**
 - Weak quarters drive need to recoup loss the next quarter
- **Check Vendors’ Investor Relations Website Quarterly:**
 - Any recent acquisitions or divestitures by vendor?
 - Find out about new and changes to executive management

7

Use Financial Models for Cost Transparency and Leverage — Engage IT Finance to Ensure Models Reveal the Total Cost Impact

Sample Scenario:

Five-Year Prepay Proposal Received From Vendor to Meet a Business Intelligence and Data Analytics Need. Dual Entitlement Offer Including Rights to Use Both On-Premises Software and SaaS Submitted in Response to Competitive Bid Offering RFP. Sample Proposal Includes:

- **Prepay Fee:** \$2,500,000
- **Description:** 10 Developers, 200 Search Users and 790 Reporting Users. Prepay Includes On-Premises Software License Rights and Annual Maintenance and SaaS Subscription Cloud Use for Five-Year Term

Gartner-Recommended Actions:

1. *Always Request Pay-as-You-Go (PAYG) Proposals From Vendors to Analyze Prepay Options.*
2. *Engage IT Finance to Calculate and Compare NPV of PAYG Payment Stream to Prepay for Financial Equivalency.*
3. *Use Shortfall or Gap as Leverage to Negotiate Improved Pricing, Discount, and Terms.*

7

Action Item 1: Always Request Pay-as-You-Go (PAYG) Proposals From Vendors to Analyze Prepay Options

Sample Pay-as-You-Go Option: On-Premises Software and Maintenance

SKU	Description	Qty.	License Offer Price	Annual S&S				Pay-as-You-Go Total
				Year 2	Year 3	Year 4	Year 5	
BA0001	Analytics and Discovery Development Users	10						
BA0002	Analytics and Discovery Search and Explorer Users	200						
BA0003	Analytics and Intelligence Access and Reporting Users	790						
Totals:								

Assumptions:

Note: Above is illustrative data for example only.

- 1. License Fee 50% Discount; Includes Year 1 Maintenance
- 2. No Discounted Maintenance for Years' 2 Through 5 Without Commitment – 20% of Then-Current License Fee
- 3. Annual Maintenance and Support Increases 3% per Year Without Commitment

7

Action Item 2: Engage IT Finance to Calculate and Compare NPV of PAYG Payment Stream to Prepay for Financial Equivalency

Sample Financial Equivalency Analysis Comparing PAYG NPV to Prepay

Software Description	Year 1	Year 2	Year 3	Year 4	Year 5	Five-Year Total
(10) Analytics and Discovery Developers	\$91,485	\$37,471	\$38,596	\$39,753	\$40,946	\$248,251
(200) Analytics and Discovery Explorer	\$301,700	\$123,806	\$127,520	\$131,346	\$135,286	\$819,658
(790) Analytics and Intelligence Reporting	\$638,320	\$264,453	\$272,386	\$280,558	\$288,974	\$1,744,691
Total Commitment:	\$1,031,505	\$425,730	\$438,502	\$451,657	\$465,207	\$2,812,600

NPV @ 5% (Five-Year Internal Rate)

Five-Year Bundled Prepay Bottom-Line Offer Price

Five-Year Prepay Offer Compared to Five-Year PAYG NPV $(1 - [\$2,500,000 / \$2,607,581])$:

Action Item 3: Use this low percentage as leverage to negotiate deeper discounts and improved T&Cs

ROSE

Total Cost Under Pay-as-You-Go Discounted License Fee and Annual Maintenance at Then-Current Entitled Pricing Increasing 3% per Year

ORANGE

NPV Must Be Calculated to Compare Five-Year Pay-as-You-Go to Prepay Bottom-Line Offer (for Financial Equivalency Comparison)

BLUE

Enter Vendor Multiyear Prepay Bottom-Line Offer From Proposal

YELLOW

Use to Determine Whether Discount Is High Enough to Justify Prepay and Offset Risk of Long-Term Commitment — Use as Negotiation Lever

Pricing is an example for illustrative purposes and not representative of any specific vendor-specific proposal offering.

8

Create Vendor-Specific Terms and Conditions “Wishlists” — Collaborate With Product, Application and Business Owners to Brainstorm Needs

Sample Brainstorming Kickstart List

- ✓ Allow Nonproduction, Hot, Warm and Cold Usage at No Charge
- ✓ Offer Dual Entitlement On-Premises and Cloud Use for Multiyear Commitment
- ✓ Agree to No Software Audit During Contract Term
- ✓ Attach Website Policies and Confirm No Changes During Contract Term
- ✓ Agree to Minimum 180-Day Notice of Cloud Services Termination
- ✓ Arrange for “Try Before Buy” With Acceptance Criteria; Give Credit for Failed Acceptance Testing
- ✓ Exchange Rights: Shelfware for Reduced Maintenance
- ✓ Offer Exit Assistance If Cloud Services Provider Terminates or Is in Breach of Contract

Action Item: Create and Use a “Living” T&Cs Tracking Document During the Negotiation Process — Request Vendor’s Confirmation Regularly to Manage List of “Terms Pending” vs. “Terms Agreed.”



Be Aware of Vendor Ploys — Communicate Them to IT and the Business: Stay Calm and Be Ready!

Common Vendor Ploys

Recommendations to Maintain Control and Leverage

10

Build a Final Negotiation Phase Into Your Strategy and Timeline — Timing Is the Key to Success!

Maintain a Competitive Environment — Always Keep Two Vendors in the Running

Vendor Investor Relations Websites — Check Latest Financial Results and Acquisitions

Good Cop/Bad Cop — Switch Roles for Leverage and Bargaining Power

Use CFO/F&A Policy — Unbundled Detail a MUST for Capex/Opex Analysis

Use CxO Power — C-Level Approvals Enable "String-Along" Timing to Qtr./FY Ends

Escalate to Request "Special Bid" T&Cs Approval — If You Don't Ask, You Don't Get!

Only Award Upon Receipt of Contract With **All** Final and **Agreed** T&Cs

Be Ready With a Convincing Plan B to Enable You to Walk Away ... Make Them Sweat!

Use Your Facility or Venue and Establish "Rules" — Agenda, Attendee List, No Gift Policy

Action Item: Engage CxOs and Stakeholders to Assign and Rehearse Roles Each Player Will Assume During Final Negotiations — This Is a Must for Success!

Negotiation Tips, Tactics, Tricks: Ten TTTs at-a-Glance

1 Use Cost Detail Checklists

- Hardware Purchase and Lease
- Software License and SaaS Fees
- Maintenance/Subs./Support Fees
- Professional Services and Training

2 Ask Rather Than Attach Required T&Cs

- On-Premises T&Cs
- SaaS and Cloud T&Cs
- Outsourced/Managed Services

3 Educate IT and Business on Vendor Do's and Don'ts

- No Vendor Social Events
- Vendor Sign-In Policy and Restricted Access
- Conference Room and Whiteboard Policy

4 Create a Competitive Environment

- Competitors' Products/Services and Alternatives
- Open Source, Build vs. Buy
- Third-Party Maintenance Options/Viability

5 Enhance Your Detective Skills — Just Ask!

- How Compensated — Commission/Bonuses
- Products/Services With Higher Compensation
- Software Audits: How Is Sales Compensated

6 Collaborate to Identify Vendor-Specific Tactics

- Maintain FY End Database
- Check Investor Relations Sites Regularly
- Recent Acquisitions/Divestitures
- Financial Close Results

7 Use Financial Models as Leverage

- Capture All Hidden Costs Using Checklists
- Engage IT Finance to Customize Financial Models
- Expose Cost Gaps and Use as Negotiation Leverage

8 Engage Stakeholders to Create T&Cs Wishlist

- Use T&Cs Kickstart List
- Brainstorm All “Nice to Haves”
- Monitor “Terms Pending/Terms Approved” — T&Cs Checklist

9 Be Aware of Vendor Ploys

- Communicate Ploys to IT and Business Stakeholders
- Remain Calm — Just Be Ready!
- Use C-Level Executives to Communicate Policies and Rules

10 Final Negotiation Phase In Strategy/Timeline

- Maintain a Competitive Environment
- Create Approval Levels and Tactics
- Be Willing to Walk Away — Use Your Plan B

Recommended Gartner Research

- 🔍 [Follow Gartner's T4 Process to Optimize Negotiations: Tactics, Templates, T&Cs and Timing](#)
Jo Ann Rosenberger and Melanie Alexander (G00376059)
- 🔍 [Eight-Step Playbook to Optimize Software and SaaS Negotiations](#)
Jo Ann Rosenberger (G00381709)
- 🔍 [Toolkit: Five-Step Process to Optimize Software License Contract Terms and Conditions](#)
Eugene Quillen and Marie Sienkowski (G00332678)
- 🔍 [Toolkit: Minimize SaaS Risk and Cost by Efficiently Negotiating Optimal Contract Terms and Conditions](#)
Jo Liversidge, Dawn Hubbard, Eugene Quillen and Lori Samolsky (G00343601)
- 🔍 [Outsourcing Contract Research Index — Contract Articles and Attachments](#)
Stephanie Stoudt-Hansen, William Maurer and Others (G00381459)
- 🔍 [The CIO's Guide to Using Financial Planning and Analysis for Cost Transparency and Vendor Cost Optimization](#)
Jo Ann Rosenberger (G00352324)

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