



Defense Acquisition University

# Lunch & Learn

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## *Negotiation Techniques: "Getting to Yes"*



# Learning Objective



**Examine a negotiation framework for wisely, efficiently & amicably establishing agreements.**



## Enabling Learning Objectives:

1. Explain *Purpose of Negotiation*
2. Identify *General Negotiation Situations, Outcomes & Strategies*
3. Describe *Negotiation Process Basics, including Interests, Phases, Domains, and Multi-Level Decisions & Actions*
4. Identify *Positional & Interest-Based Negotiations*
5. Explain **"Getting to Yes"** Interest-Based Negotiation framework
6. Describe *Negotiation Best Practices, including Leverage and Tactics*

# Negotiation Basics

## Definitions

- ***Negotiation*** is a communications process for getting what you want from others
- ***Negotiation Parties*** communicate for establishing a joint decision on what each will do to achieve the agreed-to outcome
- ***Defense Negotiations*** in this discussion includes both “Intra-Government” and “DoD & Contractor” negotiations

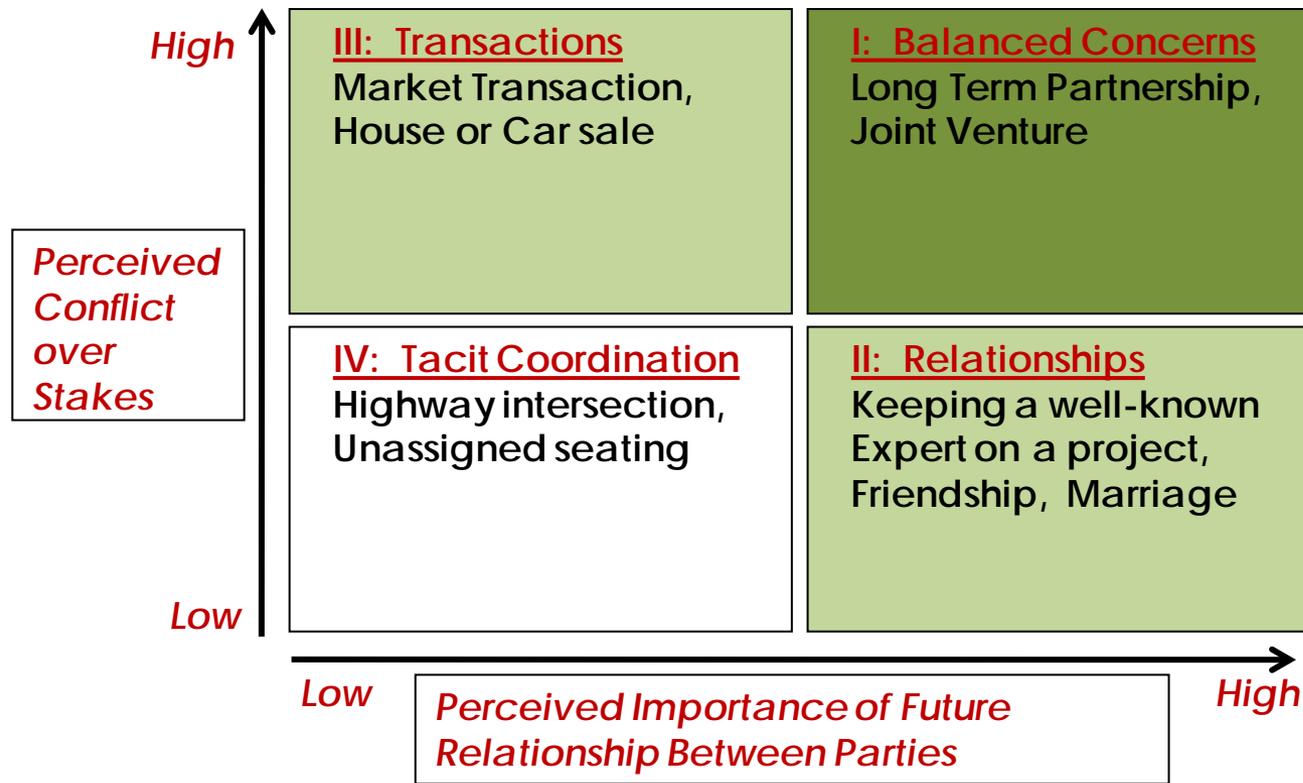
## Purpose

- ***Purpose of Negotiations*** is not to reach agreement.
- Rather, it is to satisfy your ***Interests*** in a better way than you could by not negotiating.

*Roger Fisher & William Ury, “Getting to Yes”*

# Negotiation Basics: General Negotiation Situations

*Defense Negotiations* occur frequently in green-shaded situations, particularly *III. Transactions* and *I. Balanced Concerns*



G. Richard Shell, "Bargaining for Advantage"

# Negotiation Basics: Preferred Outcome & General Strategies

*How do these impact  
Defense Negotiations?*

		Party "A" Outcomes	
		Lose	Win
Party "B" Outcomes	Win	<b>Win / Lose Outcome:</b> Short Term Business Relationship	<b>Win / Win Outcome:</b> Long Term Business Relationship
	Lose	<b>Lose / Lose Outcome:</b> Dead Lock No Business Relationship	<b>Lose / Win Outcome:</b> Short Term Business Relationship

Characteristic	Win/Lose Strategy	Win/Win Strategy
<b>Negotiation Goal</b>	Obtain the best possible deal for your side regardless of consequences to the other side	Obtain a result that is satisfactory to both sides, including a fair and reasonable price
<b>Focus</b>	Defeat the other party	Solve mutual problems
<b>Environment</b>	Mistrust and Gamesmanship	Cooperation and trust
<b>Negotiation Characteristics</b>	<ul style="list-style-type: none"> <li>Tactics designed to increase or emphasize relative power</li> <li>Focus on negotiating positions rather than long-term satisfaction</li> <li>Argumentative</li> <li>Reluctance to make any meaningful concessions</li> <li>Highly competitive</li> </ul>	<ul style="list-style-type: none"> <li>Negotiators attack the problem, not each other</li> <li>Focus on long-term satisfaction</li> <li>Available alternatives considered</li> <li>Results based on objective standards</li> <li>Focus on positive tactics to resolve differences</li> <li>Emphasis on a win/win result</li> </ul>

# Negotiation Basics: But, keep in mind...

## Preferred Outcome

- Long-term mutual interests cause **Defense Negotiations** to prefer *Win/Win* outcomes

## But, Negotiation Parties vary in behavior

- Have **Different Interests**
- Are subject to different levels of management responsibility / authority
- Are composed of different personalities
  - Some balance *Personal, Organizational, and Other Party Interests* to achieve long-term mutual benefits
  - Others do not

## Keep this diversity in mind when negotiating

- Remain vigilant for where a particular **Negotiation Party** might seek other than a *Win/Win* outcome
- Adjust your negotiation strategy as appropriate for achieving your **Interests**

# Negotiation Basics: Different Interests

**Negotiations are necessary because the Parties have **Different Interests**.**

***Common Interests*** may be achieved using *Win/Win* negotiations.

- ✓ *Win/Win* seeks an agreement that *best satisfies the interests of both Parties*

***Competing Interests*** inherently have an adversarial nature that often leads to *Advocacy* negotiations.

- ✓ *Advocacy* seeks an agreement that *achieves the most favorable outcome for that Party (Win/Lose)*
- ✓ *Price/Cost* is always a *Competing Interest* – Key to achieving:
  - Preferred Program outcomes at reasonable Price/Cost
  - Management Reserve for dealing with Risks & Opportunities
  - Contractor Annual Operating Plan revenue & Stockholder Marketplace Return

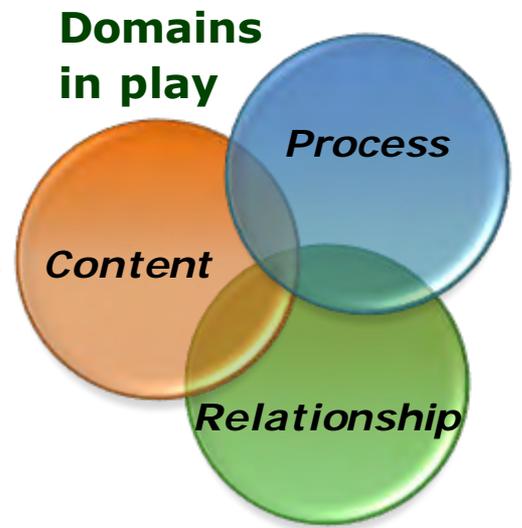
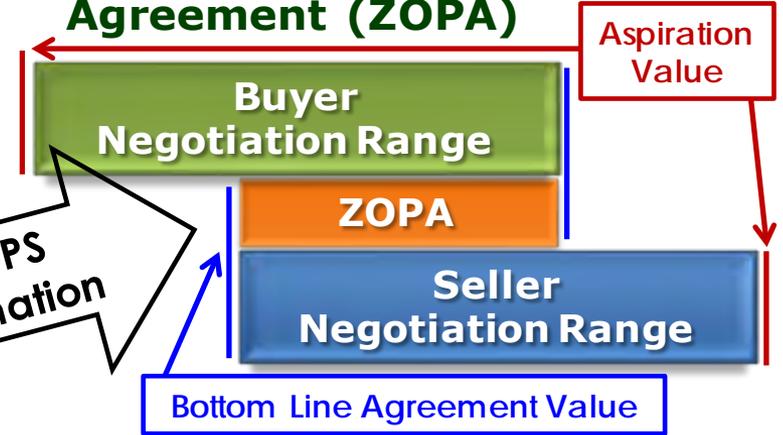
Next Charts --- *Common & Competing Interests* can often be satisfied using *ZOPA and Bottom Line Agreement*. If not, implement your *BATNA*.

# Negotiation Basics: Key Concepts

## Notional Phases



## Zone of Potential Agreement (ZOPA)



# Negotiation Basics: Multi-Level Decisions & Actions

*ZOPA Range*

## Negotiation Authority

**Executives**

**Directors**

**Mid-Level Supervisors**

**Negotiators**



*Strategy  
& Tactics*

*Win-Win  
&  
Win-Lose*



# Negotiation Basics: Positional vs Interest-Based

**Positional Negotiations:** Pre-determined, zero-sum, Win/Lose distributive solution.

**Interest-Based Negotiations:** Open, expansive, Win/Win problem solving solution.

Other names are *Principled...Mutual Gains...Information-Based Negotiations.*

## SOFT POSITIONAL

Participants are → Friends

Goal is → Agreement

Trust Others

Soft on People

Make offers

Disclose bottom line

Change position easily

Accept one-sided loss

Insist on Agreement

Avoid contest of wills

Yield to pressure

## HARD POSITIONAL

→ Adversaries

→ Victory

Distrust Others

Hard on People

Demand concessions

Mislead on bottom line

Dig into your position

Demand one-sided gain

Insist on Your Position

Win contest of wills

Apply pressure

## INTEREST-BASED

→ Problem Solvers

→ Wise, Effic, Amiable Outcome

Separate People from Problem

Soft on People; Hard on Problem

Focus on Interests not Positions

Explore to satisfy Interests

Invent Options for Mutual Gain

Identify greater value Options

Insist on Objective Criteria

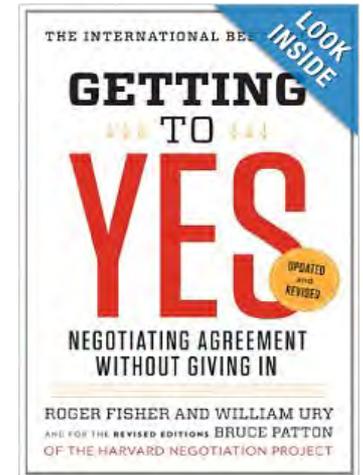
Result based on Standards

Yield to Principle, not pressure

*Fisher & Ury, "Getting to Yes"*

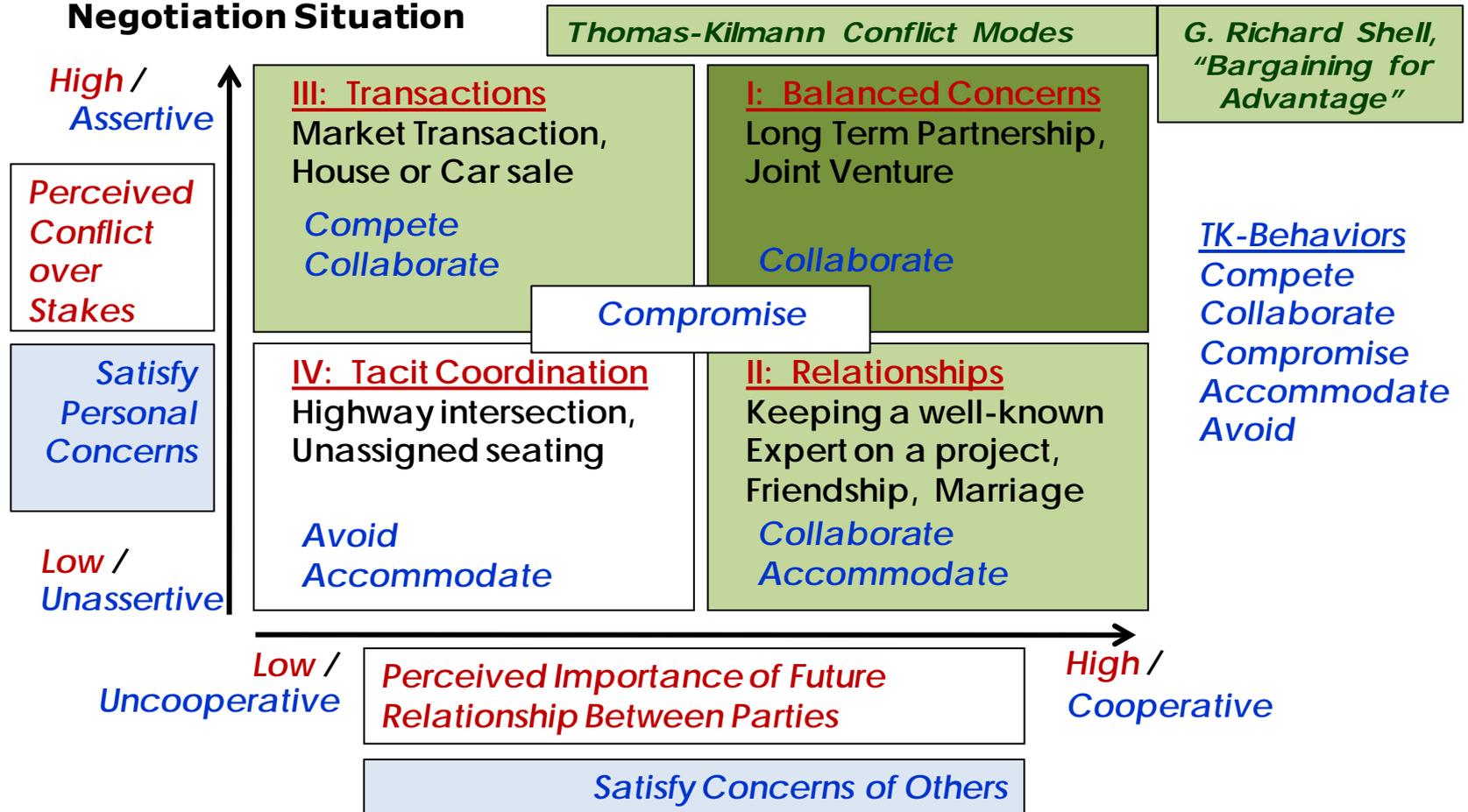
## 1. Separate People from the Problem

- ✓ Negotiations involve *"relationships"* and *"substance"*
- ✓ People's feelings, reputation, self-worth get entangled with the Problem
- ✓ Establish rapport; Understand emotions; Affirm value of People
- ✓ Ask questions and actively listen --- (1) close attention to what is/is not said, (2) ask for clarifications as needed, & (3) re-phrase what was said using positive terms; ask if this is a correct understanding (focus on understanding, defer agreement/disagreement to later),
- ✓ Ensure you understand the "why" and "why not" behind their views, facts, assumptions, assertions (use this later to develop a solution that satisfies your & their **Interests**)
- ✓ Communicate with a purpose; Ensure each communication is a step toward solving the Problem wisely, efficiently, amicably
- ✓ Don't react to *Win/Lose* communications; Reframe into joint explorations seeking a *Win/Win* solution



## 1. Separate People from the Problem (Con’t)

- ✓ Anticipate “*Conflict Handling Behavior*” generally used in that Negotiation Situation



## 1. Separate People from the Problem (Con’t)

- ✓ **Recognize and overcome Barriers to Agreement ---**  
*Ury’s “Getting Past No: Negotiating with Difficult People”*

Barriers:	Overcome by:
They use Win/Lose strategy & tactics	Explore how deadlock hurts and timely agreement helps both organizations. Reframe into mutual problem solving.
Their position / not seeking agreement in good faith	<i>“Don’t reject, Reframe”</i> into mutual problem solving for a Win/Win outcome. Ask for their advice, “What makes that fair?” Reframe from “you” & “me” to “we.” Explore “Why,” “Why not,” “What if.” Resume if appropriate.
Their emotions behind the attacks	<i>“Step to their side.”</i> Acknowledge you heard them. Examine their point of view. If appropriate, describe impact of problem on you and apologize. Resume by focusing on “Yes’s” achieved. Be optimistic on finding other “Yes’s.”
Your reaction to their attacks	Don’t react, detach, <i>“Go to Balcony.”</i> Refocus on Interests/ ZOPA/BATNA. Resume if appropriate.
Their concern of losing face	<i>“Build a Golden Bridge.”</i> Involve them in exploring better solutions for both organizations. Help them “see” why their Management will approve the agreement.

## 1. Separate People from the Problem (Con't)

### ✓ Recognize implications of *Non-Verbal Behavior*

#### Confidence, Cooperation, Honesty

- Maintaining solid eye contact
- Leaning forward in seat
- Arms uncrossed, palms open
- Smiling

#### Uncertain, Indecision

- Looking puzzled, biting lip
- Tilting head, putting fingers to mouth
- Pacing back & forth
- Cleaning glasses while thinking

#### Suspicion, Dishonesty

- Overly solid eye contact
- Avoiding eye contact
- Using gestures incongruous with spoken words & tones

#### Evaluation

- Maintaining solid eye contact
- Tilting head slightly, nodding
- Arms crossed
- Strong focus on person speaking

#### Disagreement, Skepticism, Anger

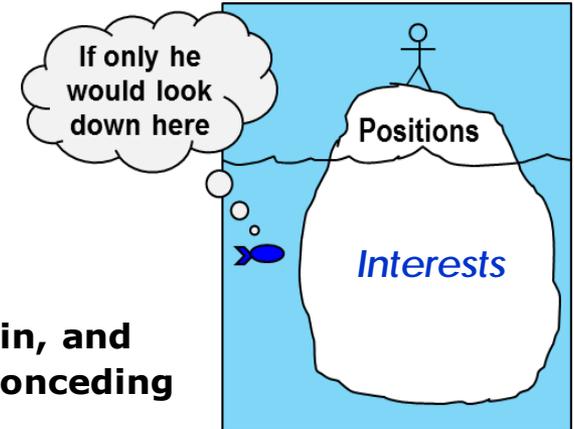
- Crossing arms or legs
- Pointing finger
- Frowning, squinting
- Getting red in face

#### Power, Dominance

- Palm down handshake
- Hands on hips, behind head/neck
- *Stark & Flaherty, "The Only Negotiating Guide You'll Ever Need"*
- *DoD Contract Pricing Guide, Vol 5, Para 5.2*

## 2. Focus on Interests, not Positions

- ✓ Invite Other Party to Discover / Identify Interests (Needs) to be satisfied.  
Ask Why “A?” Why not “B?” What if “C?”
- ✓ Avoid Positions / Pre-determined Outcomes.  
Don’t make a point. Don’t rehash past.
- ✓ Prioritizing Interests highlights areas of mutual gain, and allows you to achieve more important ones while conceding less important ones.
- ✓ Use assessment of your and the other party’s BATNA to make a negotiated agreement more attractive.



Positions:	Interests:
Solutions to problems	Why a particular solution is preferred
Specific & Definite	Reasons underlying positions
Basis for argument	Basis for mutually beneficial solution
Require justification	Require explanation
End discussion	Start discussion

## 2. Focus on Interests, not Positions (Con’t)

**Ask questions – Probe now, disclose later!**

- ✓ **What is/is not important to other Party?**
- ✓ **Why a particular approach will/will not satisfy the Party’s Interests?**
- ✓ **What impact to the Party might occur if a particular approach was implemented?**

**About 2 x**



	<u>Skilled Negotiators</u>	<u>Average Negotiators</u>
Asking questions	21.3%	9.6%
Testing for understanding	9.7%	4.1%
Summarizing	7.5%	4.2%
<b>Total</b>	<b>38.5%</b>	<b>17.9%</b>

*Results of a study by Neil Rackham and John Carlisle that monitored the behavior of English labor and contract negotiators*

## 2. Focus on Interests, not Position (Con’t)

### Typical Program Execution Problem Solving Situations

Reaching agreement on how, when & where a particular item should be accomplished

- How, when & where a review should be held
- How, when & where a test should be conducted
- How, when & where a study should be accomplished
- How a procedure should be modified to provide better and/or lower cost results



### Participants

- Program Planning & Problem Solving = PMO Leaders & Contractor Counterparts
- Program Engineering or Contract Change Proposal = PMO & Contractor teams led respectively by Contracting Officer & Contractor Counterpart

“It’s a good idea, but ...”

## 2. Focus on Interests, not Positions (Con’t)

### DoD Buyer’s Interests

- ✓ Satisfy DoD User by acquiring items having specified attributes, on time, at “*Fair & Reasonable Price.*” Reduce risk.
- ✓ Protect “*Taxpayer Interests*” by performing appropriate “*Oversight*” of Contractor performance
- ✓ Ensure PMO & Contractor comply with contract, plus applicable laws, rules, industry standards, etc. (e.g., satisfactory performance, financial & legal responsibilities, no constructive change)
- ✓ Cooperation & timely actions from Contractor



### Defense Contractor Seller’s Interests

- ✓ Satisfy DoD Buyer --- Deliver what was ordered & when scheduled, not desired. Reduce risk.
- ✓ Minimal, reasonable DoD Oversight --- Audits, inspections, data requests, subcontractor meetings, ...
- ✓ Perform work IAW Company plan, procedures, budget
  - Comply with contract, laws, rules --- Avoid adverse contract, civil & criminal legal actions
  - Stable workload --- Minimal, reasonable DoD requests for “*Within Scope*” change in work plan, procedures, sequence. Safe & stable workforce
  - Protect Corporate competitive advantage, intellectual property, resources, ...
  - Achieve planned “*Cash Flow, AOP Returns, Reputation*” --- DoD prompt funding & payment; Reasonable DoD evaluation of performance (e.g., Award Fee, Contract Incentives, CPAR)
- ✓ Progressive customer engagement to grow business, market share, and Stockholder market value.
- ✓ Cooperation & timely actions from DoD Buyer

## 3. Invent Options for Mutual Gain

- ✓ **Separate brainstorming from deciding. Withhold judgment. Be open to possibilities.**
- ✓ **Think beyond the box. Create value for both parties. Together achieve more than what you could on your own.**
- ✓ **Avoid: Premature judgment, Single answer, Win / Lose thinking.**
- ✓ **Use any of the following for developing attractive options:**
  - Packaging*** – Combine 2 or more items to add value to the deal
  - Framing*** – Describe a potential solution in terms of gain, benefits
  - Balancing*** – Describe a potential solution in terms of what each Party gives and receives to obtain a better negotiation outcome



## 4. Insist on Using Objective Criteria

- ✓ **Agree on objective criteria before evaluating solutions**
  - *Statutes, Regulations, Directives*
  - *Industry standards, Current Industry practices*
  - *Logic: Precedence, Reciprocity, Mutual Benefits*

- ✓ **As applicable, apply “*Universal Principles of Influence.*”**

*Authority*

*Liking/Friendship*

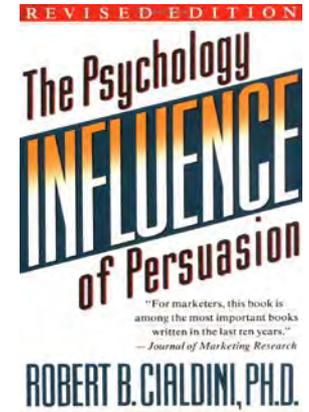
*Reciprocation*

*Scarcity*

*Social Validation*

*Consistency/Commitment*

*Dr. Robert Cialdini, “The Psychology of Persuasion”*



- ✓ **Frame each issue as a joint search to meet objective criteria.**
- ✓ **Ask, “*What makes that fair / mutually beneficial?*”**
- ✓ **Identify why senior management could agree with the standard. Use this to obtain “*Commitment.*”**

## Joint efforts should produce:

- ✓ **A Wise Agreement:** Meets legitimate interests of each party to the extent possible, resolves conflicting interests fairly, is durable, and takes community interests into account.
- ✓ **Efficiently:** Avoids unnecessary use of resources and time to reach agreement, as well as risk that no agreement will be reached.
- ✓ **Amicably:** Improves, or at least does not damage, the current relationship.



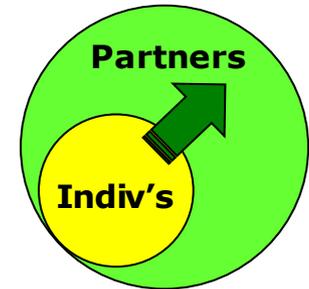
# Negotiation Best Practices

**Most important factor in negotiation is analysis/preparation.**

*Lesson* – Opportunity costs of failing to analyze/prepare are enormous!

**Good negotiators create value; They do not just divide it.**

*Lesson* – Look for mutual gains from shared interests. Together achieve more than what either could do on your own. Make trades based on differences in needs & priorities (schedule, tasks, dollars).



**Listen to and understand the Other Party. Remain open to ideas. Respond to logic by updating/evolving your “Satisfactory Outcome” as facts and logic lead you. Don’t seek agreement on each issue; rather, consider all information and *“Settle at the Bottom Line.”***

*Lesson* – Pursue a Win/Win agreement based on sound logic and relevant facts. Avoid potential waste of time, plus experiencing people issues, by using ZOPA to reach “Bottom Line” agreement wisely, efficiently, and amiably.

# Negotiation Best Practices

**High, yet reasonable goals + sequenced agenda + sound questions + careful observations + listening + patience are highly rewarded**

## **Select appropriate discussion sequence**

- Easy issues first to build Win / Win momentum, or ---
- Explore harder issues first to accelerate discovery of important interests

## **Select appropriate problem solving approach**

- Discuss but do not seek agreement on each cost issue. Rather, once all issues have been discussed, seek agreement at the "*bottom line*," or ---
- Decompose contentious negotiation into phases that seek smaller, progressive *understandings / mini-agreements* that, over a period of time, lead to final agreement

## **Carefully observe non-verbal as well as content & tone of verbal behavior**

- What might non-verbal & verbal behavior indicate?
- Congruence or discordance among behaviors and actual interests?

**Lesson** – Know your interests. Use questions to discover other party's true interests. Use "*Getting to Yes*" principles to reach agreement in *ZOPA* at earliest reasonable time. If appropriate, walk away & implement *BATNA*.

# Negotiation Best Practices – Leverage

**Leverage makes more of a difference in outcomes than any individual trait of a negotiator. Examples:**

- **Need:** Every reason why the other side needs/wants the agreement is leverage.
- **Need:** Who has greater need for agreement (urgency for item/service, book sale, increase cash flow, ...)?
- **Loss:** Can the item/service be easily obtained from other competitive sources?
- **Loss:** Who has the stronger BATNA? Can you create a vision that the other Party will be worse off if no agreement is reached?
- **Time:** Will the “deal” be lost at a certain point in time (more credible if external event or external deadline cannot be stopped or postponed by the Parties)?
- **Normative Stds:** How credible is other Party’s negotiation position?
- **Normative Stds:** Who has greater skill in influencing the other Party? ...his/her Stakeholders? Who is under greater Stakeholder pressure to reach agreement?
- **Self-Worth:** How will unreasonable/irrational/unfair negotiation conduct affect other Party’s reputation and future?



**Lesson** – Always work to improve your leverage & how the other Party perceives your leverage. Usually, there is a “counter” to every “leverage.”

# Negotiation Best Practices – Tactics

**100+ Tactics are covered in courses and books. All seek to influence the Other Party to accept a different outcome. Usually there is one or more counters to each Tactic. How would you counter these?**

## **Stalling**

- **Party A stalls negotiations in belief Party B is under time pressure to settle.**

## **Foot in The Door**

- **Party A first obtains small concession from Party B, then uses persuasive arguments to achieve “related” concessions.**

## **Deadline**

- **Party A says “deal” is only good until “x” date / event occurs.**

## **Nibbling / Oops**

- **Party A & B settle. Subsequently, Party A asks Party B to accept small adds as these had accidently been overlooked, but were discovered during Party A’s approval review.**

## **Divide & Conquer**

- **Party A & B settle. Subsequently, Party A calls Party B’s superiors/stakeholders to get a better “deal.”**

# Negotiation References

**Commercial Courses – Many, such as Harvard Business School**

**Commercial Books – Many, such as:**

*Getting to Yes: Negotiating Agreement Without Giving In,*  
**Roger Fischer & William Ury, 1991**

*Bargaining for Advantage: Negotiation Strategies for Reasonable People,*  
**G. Richard Shell, 2006**

*Getting Past No: Negotiating with Difficult People,* **William Ury, 1991**

*How to Read a Person Like a Book,*  
**Gerard Nierenberg, Henry Calero, & Gabriel Grayson, 2010**

*Give & Take: Complete Guide to Negotiating Strategies & Tactics,*  
**Chester Karass, 1993**

*The Only Negotiating Guide You'll Ever Need: 101 Ways to Win Every Time in Any Situation,* **Peter Stark & Jane Flaherty, 2003**

# Negotiation References

## DAU Continuous Learning Modules – Harvard Business School

- HBS 302 – Negotiating for Results
- HBS 305 – Negotiating for Results –  
High Bandwidth
- HBS 428 – Negotiating
- HBS 432 – Persuading Others



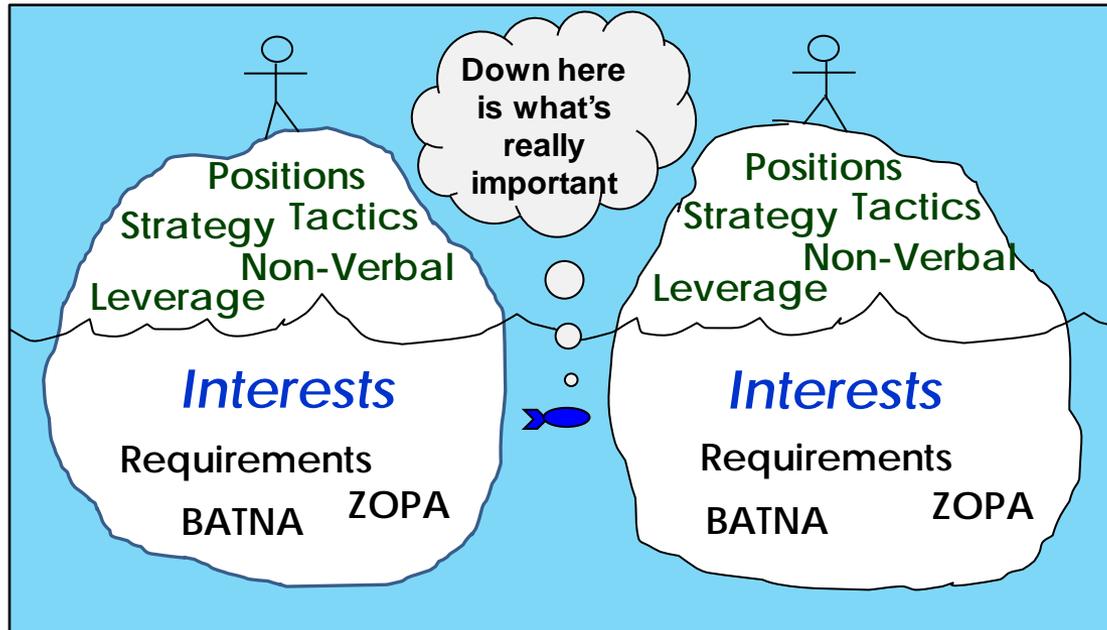
## DAU Continuous Learning Modules

- CLM 005 – Industry Proposals & Communications
- CLC 047 – Contract Negotiation Techniques

## Contract Pricing Reference Guides

- Volume 5, *"Federal Contract Negotiation Techniques"*

# Pulling all of this Together...



**Always useful to know Strategy, Nonverbal Behavior, Leverage & Tactics**

- Many courses & books help you learn these

**As you learn these, you can still successfully negotiate by:**

- Ascertaining "*Interests*"
- Then using **Interest-Based Negotiations** to establish a "*Win/Win*" outcome

# Summary: It's all about Interests & Practice

***Before I took up my current line of work, I got to know a thing or two about negotiating when I represented the Screen Actors Guild in contract talks with the studios.***

***After the studios, Gorbachev was a snap.***



***Ronald Reagan***