Interest Based Bargaining vs. Positional Bargaining

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Why Negotiations Fail

• Parties take rigid positions
• Parties do not view it as problem solving
• Process of “one-upsmanship”
  – Who wins and loses
  – Competitive sport
• Bargaining is obstructed by these behaviors
Definition:

- “Positional” Bargaining – A common negotiating method which explores the positions of each side as solutions to problems by exchanging written proposals and counter proposals. Solutions are generally achieved through compromise.
Competitive Behaviors

• An advocate enters a negotiations process to represent the interests of his/her constituent(s).

  – However, if there is a slight shift in attitude away from representing constituent interests to “beating an opponent” as in some type of competitive sport, then bargaining behaviors which are potentially harmful to constituents are likely to develop.
Competitive Behaviors-Harmful Characteristics

• Affect the way you think and act in your group
• Affect how you think about the other group
• Affect the way you think and act at the table

Can the issues get lost?
Yes, if you get wrapped up in these behaviors.
Definition:

• **Interest-Based Bargaining** – A joint problem-solving process which explores interests of both sides and achieves solutions by outlining options. Solutions are achieved by consensus.
Best Practices Adopted for Interest Based Setting

- Utilizing an Informal Setting
- Sharing of Information
- Demonstrating Flexibility
- Problem Solving Atmosphere
- Note Taking Reduced
- Effective Communication
Effective Communication

- Active listening
- Ask open ended questions
  - Remember to ask “why?”
- Positive body language
- Paraphrase
- Summarize
Why use Interest Based Problem Solving?

• Opens communications
• Creative solutions
• Durable solutions
• Improves relationship
• Greater success with implementation
Basic Principles of the Interest-Based Process

• Focus on issues not people or the past
• Focus on interests not positions
• Identify mutual interests
• Satisfy the other party’s interests as well as your own
• Develop solutions by evaluation options
• Information sharing is crucial
# Positional vs. Interest Based

## Method Comparison

<table>
<thead>
<tr>
<th>Positional</th>
<th>Interest Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting Point</td>
<td>• Identify Problems</td>
</tr>
<tr>
<td>Strategy</td>
<td>• Develop Positions</td>
</tr>
<tr>
<td>• Defend positions, entrench in positions, discredit your opponent’s position</td>
<td></td>
</tr>
<tr>
<td>• Use power and manipulation</td>
<td></td>
</tr>
<tr>
<td>• Make incremental changes to positions through counter proposals</td>
<td></td>
</tr>
<tr>
<td>Solutions</td>
<td>• Identify interests</td>
</tr>
<tr>
<td>• Defer to the more powerful or concede to middle ground</td>
<td></td>
</tr>
<tr>
<td>• Problem solve a solutions</td>
<td></td>
</tr>
<tr>
<td>• Reach a consensus</td>
<td></td>
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Anchoring

When you make an offer in the form of a proposed solution to a problem, you can anchor the discussion.

Is this bad?
If it happens too early in the negotiation it may prevent the parties from exploring a full range of potential solutions. This is an obstacle to developing “quality agreements” which address the interest of the parties.
Avoiding Anchors

Before you begin proposing solutions, discuss problems and explore “interests.”

An interest is a need or concern associated with the resolution of a problem. It may be:

- **Mutual** – an interest shared by both parties
- **Separate** – unique to one party but not necessarily in conflict
- **Conflicting** – interest that can not be simultaneously addressed
# Positions and Interests

Peeling Back the Layers

<table>
<thead>
<tr>
<th>Position</th>
<th>Gloria</th>
<th>Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlantic City New Jersey</td>
<td></td>
<td>Chama, New Mexico</td>
</tr>
<tr>
<td>WHY?</td>
<td>WHY?</td>
<td></td>
</tr>
<tr>
<td>Interests 1</td>
<td>Lie on the beach</td>
<td>Fly fish</td>
</tr>
<tr>
<td>(Position?)</td>
<td>Stay in luxury hotel</td>
<td>Hike in mountains</td>
</tr>
<tr>
<td></td>
<td>Quality time with spouse</td>
<td>Quality time with spouse</td>
</tr>
<tr>
<td></td>
<td>WHY?</td>
<td>WHY?</td>
</tr>
<tr>
<td>Interests 2</td>
<td>Freedom from routine tasks</td>
<td>Freedom from routine tasks</td>
</tr>
<tr>
<td></td>
<td>No responsibility</td>
<td>No responsibility</td>
</tr>
<tr>
<td></td>
<td>Solitude</td>
<td>Solitude</td>
</tr>
<tr>
<td></td>
<td>Outdoors</td>
<td>Outdoors</td>
</tr>
<tr>
<td></td>
<td>Walking aimlessly</td>
<td>Walking aimlessly</td>
</tr>
<tr>
<td></td>
<td>No phones</td>
<td>No phones</td>
</tr>
<tr>
<td></td>
<td>Take naps without guilt</td>
<td>No boat or equipment demands</td>
</tr>
<tr>
<td></td>
<td>Time with spouse, no distractions</td>
<td>Sharing activities with spouse</td>
</tr>
<tr>
<td></td>
<td>Glass of wine before noon</td>
<td>Catching fish</td>
</tr>
<tr>
<td></td>
<td>Feel hot sand, smell salt air</td>
<td>Smell of pines, sounds of gentle, rushing water</td>
</tr>
</tbody>
</table>
Interest Based Bargaining
A Model
Recording and Table Conduct

- Use flip charts to document the process
- Use flip charts to involve the participants
- Keep the charts in full view while you are working the problem

*Conventional Table Conduct Doesn’t Work in an Interest Based Process*

- Frequent caucuses impede the process
- Teams have captains but not sole spokespersons
- Work face to face with the other party as much as possible
Definitions

- **Issue** – A topic or subject of dispute; the problem to be solved; the “what.”
- **Interest** – A party’s concern, need or desire behind an issue; “why” the issue is being raised.
- **Options** – Potential solutions to an issue which address one or more interests; the “how” the problem is to be solved.
- **Position** – One party’s solution to an issue, often an inflated requirement, rigidly held, setting the stage for conflict and precluding cooperation.
Interest Based Bargaining Model

1. Identify the Issue
2. List Interests
3. List Options
4. Isolate Options
5. Draft Agreement
6. Caucus
7. Caucus

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Interest Based Bargaining Model

Identify the Issue
Select an Issue

- Jointly select an issue
- Discuss the issue as necessary to provide understanding
- State the issue clearly (consensus process)
- Narrow the issue to provide effective focus
- Flipchart issue statement
- Stay away from interests and solutions
- Check! Make sure solution not implied in the way issue is stated
Discuss all interests

• Flipchart interests
• Discuss/clarify interests
• Identify mutual interests
What is an Interest?

• Interests define the problem
• Interests motivate people; they are the silent movers behind the positions people take
• Your position is something you decide on; interests cause you to come to your decision
Key Differences

• A position statement:
  – focuses on a particular solution,
  – makes a demand, and
  – sets up confrontation before the problem has been clearly defined

• An interest statement:
  – focuses on the problem,
  – articulates one of a range of needs, and
  – establishes a climate and common language for discussion so that the real issue or problem can be understood, discussed and negotiated
Converting Positions to Interests

If a demand, solution, proposal, or position appears on your interest list, convert it to an interest by asking, “what problem is it trying to solve?” or “what concern is it intended to address?” or ask “why?”
Position vs. Interest

Position:
“I need to borrow a minimum of $200,000 from my bank.”

PEEL BACK A LAYER, ASK “WHY?”

Interest:
“I need cash to pay off my ex-spouse and buy my new boat.”
Generate Options

• Use brainstorming
• Generate options that:
  – Satisfy your interests
  – Satisfy their interests
Brainstorming

- Value quantity not quality
- Move quickly and chart all ideas
- Never criticize an idea
- Keep your charts in full view at all times
- Look at the problem from the perspective that you believe the other side may have
Clarify and Discuss Each Option

• Do not compare options
• Amend, combine, or develop new options
• Caucus to evaluate by interests and/or standards
Standards

**Definition:**

Standards (sometimes referred to as criteria) are observable, qualitative or quantitative aspects of a solution which measures acceptability or unacceptability
Isolate Options

- Select options that address the interests
- Combine options
- Expand options to create new options
- Develop the options into a solution
- Clearly define the solution
Form a Solution

• Develop consensus on the elements or basic concepts of solution
• Reduce concepts to contract language in joint language committee
• Check for full committee consensus on the draft document
• Tentative agreement
Negotiations: A Good Outcome

• Satisfies **Interests**
  – Ours and Theirs

• Is an efficient no waste solution: among the best of many **Options**

• Is **Legitimate** – no one feels taken

• Includes **Commitments** that are well-planned, realistic, and operational.

• Is reached efficiently – the results of effective **Communications**

• Helps build a good working **Relationship**
Interest Based Bargaining Model

- Identify the Issue
- List Interests
- List Options
- Isolate Options
- Draft Agreement
- Caucus
- Caucus
How to Prepare

• Educate constituents about the process
• Seek information from your constituents
• Compile a list of issues and interests
• Write an opening statement
• Convene a pre-negotiations meeting
  – Share a list of issues
  – Reach consensus on ground rules
Interest-Based Process

Myth and Reality

**Myth**

“It is a weak process.”

**Reality**

- Problem solving process isn’t weak
- Interest Based Process was developed by observing “successful” negotiators
- Avoids “competitive” behaviors
Interest-Based Process

Myth and Reality

**Myth**

“The parties need to trust each other.”

**Reality**

- Trust is an output of a relationship – not an input
- The degree of trust is reflected in the candor of your discussions
- Because the Interest Based process is a more open process there is less opportunity to accidentally create distrust
- It is easier to trust a process than a person
Interest-Based Process

Myth and Reality

**Myth**

“It does not require disclosure of information.”

**Reality**

- Process is driven by shared information
- Preparation bias
- Disclose appropriate information
Interest-Based Process

*Myth and Reality*

**Myth**

“It can be done if only one party agrees.”

**Reality**

• It works best if both parties see their self interest enhanced

• Most competent advocates use some type of interest based approach regardless of the other parties style

• “Optioning” part of the Interest Based process is difficult unless parties agree
Interest-Based Process

Myth and Reality

Myth
“There is only one way to use an Interest Based Process.”

Reality
• Style and method should be tailored to parties needs and comfort level
• Intent over form
• Be aware of process rigidity
IBB is Not for Everyone

- Does each party have authority?
- Can the parties effectively communicate?
- Is training and facilitation available?
- Are both parties willing participants?
- Are the parties’ expectations reasonable?
- Does sufficient trust exist between the parties?
- Is the environment right for labor-management cooperation?
- Is there sufficient time before contract expiration?
Preparing for Traditional Bargaining

- Assemble bargaining committee
- Establish negotiator’s authority and management’s expectations
- Gather bargaining data and information
- Briefing personnel and coordinating with other management functions
- Selecting a site
Developing a Bargaining Game Plan

- Establish objectives and set economic perimeters
- Identify key issues
- Determine management’s agenda
Final Questions?

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Thank You

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