
Teams and Group Negotiations

A significant element contributing to the dynamics of any complex negotiation is whether there are more than two parties. Thus far, we have devoted almost all of our attention to negotiation as a dyadic process—the dynamic interaction between negotiator and opponent. Some negotiations *are* exclusively conducted by two parties: a buyer and a seller, a husband and wife, or a boss and subordinate. But many more negotiations—particularly those that occur in organizations—involve other parties. This is increasingly the case as individual organizations become leaner, flatter, less hierarchical, and less formal in an attempt to achieve greater efficiency, agility, and responsiveness.

The negotiators themselves may also represent stakeholders who are not at the table but who are interested in the negotiated outcomes. A union leader represents the rank and file; a diplomat represents a country's government and leadership; a manager represents the senior leadership and owners of the company. Negotiators who represent these "constituencies" are usually given instructions as to how to negotiate and what objectives are to be achieved; in addition, they are held accountable by their constituencies for achieving these objectives. There may also be other parties, such as interested third parties or audiences to the negotiation, who may or may not be directly affected by the negotiations themselves, and who may or may not be able to observe and participate in the process.

When constituencies, third parties, and audiences become involved in the negotiation, their very presence changes the nature of the negotiating dynamics. Experienced negotiators know how to assess the impact and consequences of these other actors on the negotiation process. Moreover, by understanding this impact, they can effectively employ constituencies, audiences, and third parties, either to protect themselves from undue pressures or to increase the pressures on their opponent. When this diversity is represented by negotiation teams, an understanding of the relevant dynamics and processes can improve the bargaining process by building on the strengths teams bring, while avoiding the pitfalls of faulty group process. The articles in this section address these social dynamics.

In the first article, "A Core Model of Negotiation," Thomas Colosi notes that while a great deal of the popular writing on negotiation depicts it as a one-on-one process, much of actual negotiation is, in fact, a rich and complex social interaction. Many negotiators function in teams rather than alone. Moreover, negotiating teams seldom agree among themselves as to their positions on issues. Individuals play different roles within these teams; these different roles often have the consequence of protracting a dispute rather than facilitating its resolution. Finally, as the negotiating team is often composed of organization members who have different job titles and levels of

seniority, deliberations within and outside the team are likely to occur across organizational hierarchical levels. The reality, as painted by Colosi, shows how actual negotiations in organizations are often far more complex than the one-on-one dynamics described in textbooks or artificially simulated in class role-plays.

In the second article, "Get Things Done through Coalitions," Margo Vanover suggests that forming coalitions based on common interests can help us achieve negotiation objectives by providing "power through clout." These objectives can be achieved even if that clout tends to be highly issue- or situation-specific. Many of the elements of effective coalition management (commitment, expertise, preparation, etc.) are also those usually prescribed for effective negotiation in general, highlighting the strongly "negotiationlike" nature of the coalition process. Vanover's examples illustrate the importance of coalitions, and she offers a number of specific, useful suggestions for building broad support and for focusing this coalition of support on the key opponent. Her suggestions include ways to choose a leader, guidelines for making a coalition successful, and a valuable list of 20 tips for making coalitions work.

The third and final article in this section, "The Negotiation of Settlements: A Team Sport," by practitioner James Zack, builds on both Colosi and Vanover by providing both descriptive and prescriptive information in the rich, real environment of construction management. Of particular interest to readers is Zack's reminder of the importance of utility, compatibility, and issue clarity in assembling negotiating teams. Zack identifies team negotiation as an activity best suited to the integrative or collaborative approach of win-win negotiation. He contrasts this team orientation with what he labels "traditional" (chiefly competitive or distributive) negotiation, to the benefit of the integrative approach.

READING 9-1

A Core Model of Negotiation

Thomas Colosi

THE CONVENTIONAL PERCEPTION OF BILATERAL NEGOTIATION

Negotiations are typically depicted as involving one group sitting across a bargaining table from a second. One side presents its demands or proposals to the other, and a discussion or debate follows. Counter-proposals and compromises are offered. When the offers are eventually accepted on both sides, the dispute is settled and an agreement is signed.

Within this model, all the interesting and relevant action is presumed to occur back and forth between the two sides. The model assumes that each party is monolithic, even if represented by bargaining teams. The way in which the participants are billed—labor versus management, prisoners versus guards, environmentalists versus industry—reflects the same monolithic assumption; that is, that all team members share the same set of demands, agree on a strategy for handling the opposition, and have come to the table with equal enthusiasm for the negotiating process.

Unfortunately, the conventional model of negotiation obscures much of the richness and complexity of the bargaining process. In practice, bargaining teams are seldom monolithic. Team members often have conflicting goals and values; some sort of consensus must develop internally before agreement can be reached with the other side. While some students of negotiation have recognized the importance of this internal bargaining, conventional models do not explain their relationship to the functioning of the larger process. By contrast, the model developed in this article attempts to incorporate this dimension and thus to present a richer and more realistic view of negotiation.

For the sake of simplicity, the model presented below assumes—at this point—just two bargaining teams. Later in the article it is expanded to incorporate multiparty situations; conceivably it might also be applied to cases involving just two individuals. In any event, the model is intended to describe the structure or core of negotiation, regardless of the particular issues at stake, the identity of the parties, or the sector (public or private) in which the dispute takes place.

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STABILIZERS, NONSTABILIZERS, AND QUASI MEDIATORS

Within each team, negotiators usually hold quite different attitudes. Some negotiators tend to settle at any cost. They may be called *stabilizers*. They seek agreement with the other side to avoid the disruptive consequences of nonsettlement, particularly such lengthy, expensive, or disruptive alternatives as litigation, strikes, demonstrations, riots, and wars. A second general type, the *nonstabilizers*, do not particularly like the negotiation process. Nonstabilizers tend to disagree with most of the proposals of their own team and all of the counter-proposals of the other side. They would rather see disruption through raw contests of will and power than compromise on a given position. The terms nonstabilizers would accept are far more stringent than those to which the stabilizers would agree.

Finally, in the middle is a third type, the *quasi mediator*, who plays several roles. He or she is usually the spokesperson charged with the success of the effort. To those sitting across the table, the quasi mediator may simply look like another negotiator, but within a team he or she often acts as a kind of mediator between the stabilizers and the nonstabilizers. As will be shown later, the quasi mediator can also be a mediator between the team and its own constituents or clients.

HORIZONTAL, INTERNAL, AND VERTICAL NEGOTIATIONS

Although most conventional models limit their analysis to the bargaining that goes on across the table, relatively little true negotiating goes on horizontally. Instead, speeches are made, symbols and platitudes are thrown out, and emotions are displayed. If the communication is healthy, the two teams use this time constructively to educate each other: They explain proposals and counterproposals, compare data, show videotapes, share printouts, and present experts. Except for this opportunity to educate and to learn, however, all of this may be less important than the real activity going on internally.

The standard model also misses another important dimension of negotiation: the interchanges that occur between a bargaining team and its vertical hierarchy. A team is rarely independent of a larger constituency. It is at the bargaining table because it has been sent to accomplish something. In the context of private-sector labor negotiation, for example, management's vertical hierarchy is the company's leadership; for the union's bargaining committee, it is the international union and, most times, ultimately the membership who must vote on a proposed contract. Almost always, important negotiations must take place between a team and its vertical hierarchy at one point or another in the bargaining.

Since negotiators are continually being reeducated through the horizontal negotiations occurring at or near the bargaining table, they are frequently far more advanced in their thinking than are their constituents back home. The resulting gap can be a dangerous trap for all concerned. Part of the art and skill of being a negotiator is recognizing how far from the constituents the bargaining team has moved. The negotiator must also know when and how to go back and educate his or her own constituents.

Sometimes the vertical hierarchy will tell a negotiator what should be achieved at the bargaining table, but after several sessions with the other side, the negotiator may come to believe that these goals cannot be reached. It is within this context that negotiation between the team and its own vertical hierarchy takes place. The quasi mediator is often responsible for negotiating with the hierarchy of the team's parent organization. In labor-management negotiations, for instance, the spokesperson or quasi mediator on the union team may wind up intellectually positioned between the local's viewpoint on an issue and management's last known position. In such a case, the union spokesperson not only tries to get management to go along with labor's point of view but may also have to try to get the rest of the union team to accept management's view on some points.

INTERNAL TEAM NEGOTIATIONS

Resolving differences between the stabilizers and nonstabilizers may be a prerequisite for effective negotiation with the other side, as well as one for reaching accommodation with the team's own vertical hierarchy if settlement is the objective. Unless some means exist for coordinating positions and goals over time, there will be serious problems. When a team is considering making an offer, for example, the stabilizers likely will want to present a generous package, while the nonstabilizers will not want to offer anything. The quasi mediator must begin to explore with the stabilizers why the concessions might be excessive. At the same time, of course, the quasi-mediator must discuss with the nonstabilizers why the proposal may be good and why the team should not be so rigid. In the same way, when a team receives an offer from the other side, the quasi mediator must show the nonstabilizers why the team should not hold out for more while checking the stabilizers' tendency to grab the offer too quickly. Much like a neutral mediator, the quasi mediator may meet jointly and separately with the stabilizers and nonstabilizers. If the team is not well disciplined, these discussions unfortunately may take place at the table. Ideally, they should take place in a separate caucus, away from the other side.

RAISING AND MAINTAINING DOUBTS TO FOSTER SETTLEMENT

In a sense, this internal team negotiation process is a microcosm of the larger negotiations that occur across the table. Similar aspects of bargaining positions come into play; the same kinds of negotiation skills are required. As in across-the-table bargaining, the most important effects are those directed at changing the minds of parties who do not want to settle.

It is reasonable to ask why the focus should be on those who oppose settlement: Perhaps those who are anxious to settle—to sell the farm—should be challenged with at least as much force. The answer lies in the true essence of negotiation. Negotiations are not squabbles or battles between two sides. The goal of the process is not for one team to extract huge concessions from the other. Instead, the essence of negotiation is to provide an opportunity for parties to exchange promises through which they will resolve their differences with one another. A settlement thus is no more—and no less—than an expression of an exchange of promises. Because the emphasis in negotiations is on the resolution of

differences through the exchange of promises, the process is oriented in favor of settlement. Attention is naturally focused on parties who seem to stand in settlement's way.

Settlement is fostered through the raising and maintaining of doubts. In all negotiations, parties that want to reach some settlement (e.g., the stabilizers and quasi mediators) work to raise or maintain doubts in the minds of others as to the viability of their particular positions, as well as doubts about the consequences of nonagreement. This effort is focused on nonstabilizers and the team across the table. The nonstabilizers are asked to consider the implications of nonsettlement, what it would mean to them personally, or to their organization, objectives, ideals, and reputations. Thus, the same techniques and strategies teams may use to raise and maintain doubts in the minds of parties across the table are also appropriate internally with the nonstabilizers. By the same token, of course, the nonstabilizers engage in a parallel effort to raise doubts in the minds of stabilizers and the quasi mediator about the consequences of settlement.

Because a particular settlement may not be in the interests of the nonstabilizer, he or she frequently must be convinced to accept a settlement through some method other than fostering doubts. Negotiators have an additional tool when dealing with a nonstabilizing teammate: the discipline of the parent organization. This discipline, which might rely upon power, title, prestige, or majority rule, operates within the team. The decision-making process is normally carried over from the parent organization through the chief spokesperson or team leader, which reinforces the roles and relationships of the vertical hierarchy. For instance, an organization that makes most of its important decisions by a majority vote will probably be represented in negotiations by a team that also makes its decisions by majority vote.

According to most practitioners, negotiation is a consensual process. The negotiators come to agreement precisely because they find settlement preferable to nonagreement. But it is erroneous to conclude, as some have, that everyone wins or gains from a negotiated agreement. The notion of "win-win" outcomes is another reflection of the limits of the conventional model of negotiation. Both sides across a table may appear to win, but within each team—where so much more bargaining goes on—there are often nonstabilizers who may view themselves as definite losers in the process.

TARGETING UNDERLYING CONCERNS

The creation and maintenance of doubts about the consequences of nonagreement (or one decision versus another) is central to inducing skeptics to settle. This is true whether they are nonstabilizers within a team or nonstabilizers across the table. But where should this effort be directed?

Fisher and Ury (1981) observe that a negotiator can move the opposite side closer to settlement by convincing it to participate in joint problem solving. This may be accomplished by separating the opposing side's *position* from its underlying *interests*.

Although positions are usually explicit, the interests that underlie them often are left unstated. For example, a community coalition might oppose the establishment of a home for mentally retarded adults in its neighborhood. Yet what is its true interest? Frequently, the community feels that the retarded adults would make the neighborhood

less safe. Preserving safe streets may be the real interest at stake. A sophisticated advocate of the home would try to raise doubts about whether the community's stated position will actually satisfy its interests: "Might not additional numbers of sincere, capable adults contribute to community safety? Look at their abilities as well as their problems." An educational process showing that the retarded adults would pose no danger to neighborhood residents—and in fact might improve their security—could foster doubts in the minds of the neighbors about their flat refusal to consider the proposal. Even if opponents are not convinced on this particular score, identifying safety as their prime interest allows the parties to explore mitigating measures.

Education can be the most effective way to raise doubts. It is used, therefore, in every phase of negotiation: across the table, within a team, and between a team and its constituents. The plan of attack is to move the opponent to a more agreeable position.

As Fisher and Ury observe, the effective negotiator aims for the underlying interests that form the foundation of the adversary's position. What happens, however, if a negotiator cannot identify the opponent's interests? Where else can doubts be targeted to get others to adopt a more flexible stance? An answer requires a closer look at the different levels of concern that are often negotiated: issues, proposals, problem definitions, and assumptions.

ISSUES, PROPOSALS, PROBLEMS, AND ASSUMPTIONS

The negotiator's job is to raise and maintain doubts on all four levels of concern. Consider, for example, a proposal to site a hazardous waste management facility that requires the approval of a community board. If there is local opposition, it probably will be based on the assumption that such facilities are inherently dangerous. If that assumption cannot be questioned, no basis exists for negotiations between the community and the developer. As a consequence, the facility will be blocked.

Moreover, even if the project sponsors can convince the community that such facilities are not necessarily dangerous, they may encounter a different obstacle—that of problem definition. For example, the community might contend that its opposition is not to treatment facilities in general but to the proposed location of this particular plant. (It might be near a flood plain.) Casting the problem in these terms obviously would affect proposed solutions. The range of proposals could include the following: having no facility at all, putting the facility at another site, using control technologies to make the facility fit the site, or making the site more acceptable for the proposed use. The issues to be discussed in negotiation would be tied to such proposals. For example, discussion might focus on the need for such a facility, the reasons for (and against) this particular location, and the cost-effectiveness of various mitigating measures.

The task of the facility sponsor would be to raise doubts about the viability of any unacceptable proposals or issues. As assumptions and problem definitions are revealed—which is much more likely than the disclosure of an opponent's real interests—the sponsor would also question them. Since the issues and proposals are derived from the problems and assumptions, the sponsor would probably try to move the negotiations into discussions of the latter before considering specific issues and proposals. In short, the sponsor would focus on the underlying concerns.

EXPANDING THE CORE MODEL

Multilateral Negotiations

The core model that has been described above includes five axes of negotiation: one horizontal, two internal, and two with vertical hierarchies. This model was based on the simplifying assumption that only two teams are at the table. While there are many instances of two-party negotiation, in other cases—particularly those that arise in the public sector—many more parties may be involved. How must the core model be expanded to accommodate additional parties?

The most important difference between two-party and multiparty negotiation is that the latter opens up the possibility of coalition. For example, three parties—A, B, and C—may come to full agreement or no agreement, but they also may be able to forge alternative side deals. Any two parties may strike a deal that leaves the third out. Were A negotiating with just one other party, he could simply weigh any proposed settlement against the consequences of nonagreement. Here, however, he must also compare a possible settlement with both B and C with the advantages of different agreements with B alone or C alone. The addition of each new party at the bargaining table greatly increases the number of theoretical alliances. The introduction of additional parties, necessary as they might be, greatly complicates the negotiation process. Some coalitions may hold for the entire negotiation, but often alliances shift with various issues. Moreover, the lineup of coalitions may shift over time as events, personalities, and loyalties change. Consensus building is always a delicate balancing act.

Finally, the presence of so many parties at the table usually will mean that much more business must be transacted. The important negotiation process usually requires much more time, as the negotiators at the table have the burden of carrying far more information back through their vertical hierarchy. Perhaps we should not be surprised that so many public disputes seem to take months—even years—to negotiate.

The Solitary Negotiator

When only two individuals are negotiating, each acting on his or her own behalf, the conventional model with its emphasis on two independent units bargaining across the table may afford understanding. Yet perhaps even here it is an oversimplification if we do not look at the negotiation that occurs within each of us. Individuals often have mixed feelings and competing priorities. People must admit (to themselves at least) that they sometimes vacillate between accepting a settlement and holding out for more.

Speculation as to whether stabilizing, nonstabilizing, and mediating impulses may exist in one mind is best left to psychiatrists, psychologists, behaviorists, neurologists, and theologians. It does seem true, however, that even in one-on-one bargaining, there can be distinct and contradictory attitudes toward a particular settlement. One strength of the model developed here is that it recognizes the stabilizing and non-stabilizing forces within each bargaining unit (be it a team or an individual), and attempts to understand the means by which they may be integrated.

Quasi Mediators and Mediators

Outside mediators enter disputes for a very specific reason: to fill a trust vacuum that exists at an impasse among and within the parties. The quasi mediator and mediator play separate, yet related, roles: Both use the creation and maintenance of doubts to move other negotiators closer to settlement. The quasi mediator, like the other negotiators, has personal, organizational, and institutional stakes in the outcome of the negotiation process. The truly neutral mediator does not. The quasi mediator also has some power to make decisions about substantive and procedural issues. Whatever power the mediator might enjoy is procedural.

READING 9-2

Get Things Done through Coalitions

Margo Vanover

What do the American Paper Institute, National Coffee Association, Milk Industry Foundation, and American Council on Education have in common?

It may seem unlikely, but the answer is "an interest in sewer user charges."

These four associations and 11 others formed the Coalition for ICR Repeal to protect their members' interests in sewer user charges. Coalition members term industrial cost recovery (ICR) as "an unfair, unnecessary, and costly provision of the 1972 Federal Water Pollution Control Act."

This particular example of a coalition illustrates two very important points that you, a leader of your association, should be aware of. First of all, the coalition was successful. The industrial cost recovery provision was repealed on October 1, 1980, and coalition members frankly admit that they could never have done it alone. It took the efforts and—even more important—the clout of all 14 members to accomplish their goal.

The second point is this: Coalition members seemed like unlikely allies. Who would have thought they had anything in common?

"It's an interesting conglomeration of business groups with one similar interest," acknowledges Sheldon E. Steinbach, general counsel for the American Council on Education, Washington. "We all had one common problem—a proposed increase in sewer user charges.

"I remember the stunned look on the faces of the people at the first coalition meeting," he says with a chuckle. "They found out quickly that my association had the exact concern theirs did."

WHO ARE OUR ALLIES?

Right now, your association is probably a member of a coalition. But do you know what the coalition's purpose is? If you don't, ask your association's chief paid officer. He or she usually represents an association's interests in a coalition effort.

And while you are talking to your chief paid officer, ask what other associations comprise the coalition. You could be surprised. Like the Coalition for ICR Repeal, their names might not suggest a tie-in with your association's cause. In fact, they may be the names of associations that have been adversaries or competitors in the past.

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It's not all that unusual, says Mr. Steinbach. "We look for common cause with other groups. We may be allies on one cause and enemies on another. It's happened time after time."

It's important to overlook past differences and concentrate on the present goal of the coalition, agrees Dr. Paul A. Kerschner, associate director for legislation, research, and programs at the National Retired Teachers Association/American Association of Retired Persons, Washington. "Two organizations can be in deep dissent on some issues," he says. "On those issues, we know we disagree. But on the issues where we do agree, it's much more powerful to speak in a unified voice."

Of course, sometimes your association's allies are obvious. Such was the case when the Distributive Services Committee was formed 17 years ago. Eighteen Ohio associations whose members were involved in distributing formed the coalition to reduce property tax on retail inventory. At the time, the tax was 70 percent of the value of the inventory. The coalition has successfully obtained several reductions since its formation, and the coalition's goal of a 35 percent inventory tax will go into effect in two years.

In this case, both the allies and the enemy were obvious. The allies: trade associations with retail merchant members. The enemy: the state legislature.

SO MANY SUCCESS STORIES

Case after case of association coalitions that have been successful in their pursuits can be cited. William T. Robinson, CAE, senior vice president of the American Hospital Association, Chicago, relates one coalition success story.

Several years ago, he says, the annual rate of increase in the level of expenditures for health care was out of control. Predictions were that if health care costs continued at the same rate it would be necessary to spend the entire gross national product on health care alone by the year 2010. In fact, the government's outlay for health care—Medicare and Medicaid—was beginning to compete with the defense budget.

Government officials, concerned, issued a challenge to the health care field to voluntarily control the rate of increase. A coalition called Voluntary Effort was created. It represented the interests of trade associations, commercial insurance companies, and others. Now, three years after the start of the coalition, "the rate of increase has been sufficiently retarded," Mr. Robinson says.

Edie Fraser, president of Fraser/Associates, Washington, has been involved in enough similar success stories to become a firm believer in their power. "Coalitions are the new trend in business relations on policy issues," she says. "I believe they are the most effective means of achieving results."

WHAT'S THEIR PURPOSE?

She explains that the basic purpose of a coalition is "to join forces together behind a mutual interest—generally a policy issue—and work together for common effectiveness and results."

"More and more associations are recognizing the power of coalitions," Ms. Fraser continues, "because they can achieve far more by integrating their resources and dividing the effort behind a common cause."

Paul Korody, director of public affairs for the National Meat Association, Washington, says coalitions are growing in numbers in response to a changing Congress. "Within the past 10 years, we have seen a decentralization of power on Capitol Hill. Today, every congressman is almost as important as another. They all have to be talked to."

That means, he says, that only the really large associations with members in every congressional district can tackle an issue alone. "The rest of us have to pool our memberships to be effective in Congress. Whereas we have a lot of meatpackers in the Northwest and Southwest, there are many congressional districts where we have no members at all. We would be less effective in those states [without a coalition]. By combining resources with a number of associations with different memberships but the same goals, you can cover the country."

He adds that, in most cases, congressional staffs appreciate a coalition's efforts. Why? Because it makes their jobs that much easier. They can get one document or have one conversation with a coalition leader and know who and how many are for or against an issue. That's in lieu of speaking with 50,000—a number that five association executives involved in a coalition can easily represent.

CHOOSING A LEADER

In order for any coalition to be successful, it has to have a leader or coordinator with a commitment to the cause and time to devote to it, says Sheldon Steinbach, American Council on Education. "The effectiveness of the ICR repeal was solely due to the continuous scrutiny and daily monitoring of one person.

"A coalition functions only when one person is given responsibility to make that issue move. Someone must call the shots. A leader must have ample time to spend on the issue, almost to the point of making it his or her primary preoccupation."

Because of the considerable time requirement, choosing a coalition coordinator is often simply a process of elimination. Who has the time to spend on it? Who was the expertise on the issue?

When these questions are answered, only a few eligibles are likely to remain. Usually it's the executive of the association which the outcome of the issue most affects.

Or as Ms. Fraser puts it, "The leader usually represents the one association that has the most to gain . . . or lose."

GUIDELINES FOR EFFECTIVENESS

Obviously, the selection of the leader can either make or break a coalition. But other factors also enter into the outcome of your association's coalition.

Here are just a few elements common to successful coalition efforts:

- A commitment by members to work, not in their own self-interest, but in the interest of the group.
- Expertise on the part of all members on the subject matter and its ramifications.

- Knowledge of how the legislature—either state or federal—works.
- Ability to plan a strategy and allow enough lead time to develop it in detail by detail so nothing slips through the cracks and is left undone.
- Communication with members of the coalition—whether it's through meetings, newsletters, memos, or telephone calls.
- Keeping on the offensive, rather than the defensive. "Use facts, data, and public opinion to build on your important points," Ms. Fraser says. "It's not necessary to attack your opposition." She ticks off campaign after campaign that was lost because one side began to react defensively to the opposition.
- Member involvement. "If the issue is important to your members—and it should be or you shouldn't be part of the coalition—get them involved," Ms. Fraser urges. "The grassroots campaign is important. The work should really come from members; your association should serve as the catalyst."
- Latitude from you and your board of directors. "Our board sets broad policy," says John C. Mahaney, Jr., president of the Ohio Council of Retail Merchants in Columbus. "After that, my board leaves me alone. It doesn't tie the staff's hands."

A COMMITMENT TO GO

The last point, the latitude you give to your chief paid executive, can be a crucial item to your association's contribution to the coalition. "The board gives us a broad delegation of authority," Sheldon Steinbach says. "We are paid to exercise good judgment and proceed. If you are hamstrung, it will slow you down, if not completely cripple your coalition."

He explains that if he had to go back to his board of directors every time a decision was made in a coalition, he would lose valuable time—not to mention the confidence of other coalition members.

SURVEY OF MEMBERSHIP

To make sure his board of directors will agree with his decisions, Mr. Steinbach surveys his membership on major issues that concern the association. "If they think it is important, they tell us to go," he says. "But they don't tell us how to go."

Dr. Kerschner explains that the only time he goes back to his board for a coalition decision is when the issue is controversial and the association's stance involves a change in previous policy.

What do you do with dissent among coalition members?" asks Dr. Kerschner. "How do you handle it? Do you avoid the issue? Do you go with the majority?"

He explains that chief paid officers must answer these questions, and answer them adequately, for a coalition to work. He has found one possible answer for the coalitions he has been involved with: If there is a disagreement on one particular point of an issue, the dissenting party removes his or her name and endorsement from that specific letter but continues to endorse the remainder of the issue.

"Trade-offs are important because one small issue can divide the coalition," he says. "Before you say 'I will not sign that,' look at all sides. You might have to make a compromise. Internal negotiations are necessary to present a united front to those you are dealing with."

GOODWILL A KEY INGREDIENT

William Robinson advises associations to go into a coalition with the idea that there might have to be a trade-off. "Your pet ideas are going to be examined by others," he says. "You might have to accept the fact that the publicity will be given to the coalition and not to your association. A coalition takes goodwill by the participants. Sometimes the goodwill is there in the beginning; sometimes it takes time for it to grow."

Speaking realistically, Edie Fraser says it almost never happens that members of a coalition agree on every item, every detail of a coalition. "That's where the art of negotiation is important. The common end of the allies is more important than the priority of any one association."

SHARING IN THE GLORY

You may wonder why your association's past efforts in coalitions have not been more heavily publicized. . . . why your association didn't take more credit for the outcome

"A coalition, to be effective, is without limelight or glory for the association involved," says Paul Korody. "The purpose is to get a particular job done. We're there to serve our members, and coalitions are the more effective means of doing that. Any glory is in the fact that we satisfactorily served our members."

Sheldon Steinbach admits that sharing the spotlight is a problem for some associations. Sometimes, they are so greedy for the recognition that they won't participate in a coalition—and risk losing the fight. Other times, they might participate in a coalition, but afterward they will attempt to garner all of the credit for their association alone.

When William Robinson was working on Voluntary Effort, he says, the businesses and associations involved had no qualms about giving complete credit to the coalition, not to themselves. "It would have been counterproductive to publish under any one member's name," Mr. Robinson says. "We wanted the coalition to become a familiar name . . . to have its own identity."

POTENTIAL PROBLEMS

Powerful though they may be, coalitions are not perfect. Problems arise, and they have to be alleviated before the cause can be won. Here are some snags that can occur. With negotiation, respect, and planning, all can be overcome.

1. *One member dominates.* Sometimes, when a coalition is composed of one or two large, domineering associations and a variety of small ones, representatives from the smaller associations are not given the chance to express their opinions. Or, if they are given the opportunity, they are not given priority. All members must listen to one another.

2. *Jealousy between members.* This usually occurs at the outset, Mr. Fraser points out, until coalition members realize that "they can achieve far more by integrating their resources and dividing the effort behind a common cause."

3. *Conflicting goals.* "You've got to go for the greatest good for the greatest number," Mr. Steinbach says.

4. *Conflicting strategy.* This occurs most often when two or more coalition members have considerable legislative experience. Because of their backgrounds, each thinks his own plan of attack is best.

5. *Minor disagreements.* Even though the association executives agree on the major issue, they sometimes bicker about a minor part of it. "You can't let a specific point divide and conquer the group," Dr. Kerschner says.

6. *Too formal.* Dr. Kerschner differentiates between organization, which you can never have enough of, and formalization, which you can. He says it's important to remember that each member of the coalition has an association to which he is responsible and that the coalition should not become a substitute for it.

7. *Too many meetings.* Some coalitions are permanent. Others are temporary—disbanded as soon as their cause is settled. Dr. Kerschner warns that members of permanent coalitions have to be careful not to call a meeting just to be calling a meeting. Unless a crisis has occurred or a new development has come up, he recommends meeting about once a month. Between meetings, he uses the phone for exchanges of information.

8. *Lack of follow-through.* Sometimes a coalition member will slip up, and the work assigned to him or her will not get done. If that happens, and it is not caught in time, all of the coalition efforts will be wasted.

EVERYONE'S DOING IT

Coalitions are not limited to associations. Business groups, consumer groups—just about any group you can think of is involved in some type of coalition. "On any side of any issue, you can find a coalition that has formed, is being formed, or will be formed," Mr. Korody says.

Whatever type of coalition your association may now be involved in, your chances of victory are better through unity. Mr. Mahaney firmly believes Ohio merchants would not have received inventory tax relief without the Distributive Service Committee. "We could not have done it alone," he states. "It took everyone in the coalition to do it."

"Sometimes a coalition is the only way to do something," he continues. "Especially now, as the problem becomes more complex. It seems like they are too big for any one—or even two—associations to handle." Paul Korody couldn't agree more. "A smart association executive seeks his peers and works through a coalition. The days of trying to do it all yourself are long gone."

Twenty Tips for Making a Coalition Work

If you aren't convinced of the value of coalitions, talk to Edie Fraser, president of Fraser/Associates, Washington, D.C. She's a firm believer in the effectiveness of coalitions and presents a persuasive argument on their behalf.

She asserts that coalitions are the wave of the future. "On most policy issues, a coalition is the only way to go—if you have a common interest," she says.

In her opinion, more and more association executives are recognizing the potential—and power—of coalitions, but they aren't sure how to proceed. "Carrying out the program is where they often fall down."

Here are her 20 rules for participating in an effective coalition:

1. Clearly define issues and strategy.
2. Determine a timetable and needs.
3. Identify both allies and opposition.
4. Build constituency and recruit allies.
5. Select leadership from within allies.
6. Devise a clear plan of action.
7. Determine resources, budget, and meet those needs.
8. Divide up tasks within the coalition.
9. Establish a working task force or executive committee.
10. Keep coalition members informed and involved.
11. Establish a communication program plan; clearly distribute tasks.
12. Build supportive case materials.
13. Develop an internal communication program, with each association involving its members.
14. Enlist experts to support the coalition's case.
15. Explain the issue in economic impact terms when possible; use appropriate public opinion.
16. Utilize all pertinent media for greatest impact.
17. Remember to keep all coalition constituents informed and involved.
18. If it's a legislative issue, review the congressional strategy on a regular basis.
19. Determine if the coalition leadership is serving as a catalyst for communication.
20. Prove the results and communicate them to the member constituencies.

READING 9-3

The Negotiation of Settlements: A Team Sport

James G. Zack Jr.

TRADITIONAL NEGOTIATIONS

Negotiation is traditionally portrayed in a competitive or combative context. Analogies to competitive sports are frequent, and the terminology of war often slips into a traditional discussion of negotiation of settlements. For example, one author has stated, "[The] real act of negotiation lies in the exercise of power". In this traditional view, each party is depicted as single minded in its pursuit of the most favorable deal possible—almost always at the expense of the other party. Traditional negotiations can be summarized in the following four ways:

- The "win-at-any-cost" style, which allows pressure, threats, and intimidation, and results in a win-lose situation.
- The "maintain-the-relationship" style, which causes a negotiator to give anything to keep the other side happy, and results in a lose-win situation.
- The "conflict-avoidance" style, which causes you to take anything the other side offers, and results in a lose-win situation.
- The "compromise/find-an-acceptable-settlement" situation, which amounts to nothing more than bargaining, and results in no one winning or losing.

The last situation is frequently summed up with the expression "Neither side was happy with the settlement, but they agreed anyway."

NEW FORM OF NEGOTIATION

The traditional form of negotiation is often inefficient and wasteful of time and energy; it frequently leads to deadlock rather than agreement and dissatisfaction instead of accord and satisfaction. A new form of negotiation has been suggested, which is based on what is referred to as the win-win style. It has resulted from studies conducted over a number of years by the Harvard Negotiation Program and is most clearly articulated in Fisher and Ury's book *Getting to Yes: Getting to Agreement without Giving In*.

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The win-win approach is premised on the concept that each party in the negotiation is a problem solver, and all of the parties share a need to solve the same problem. The problem is loosely defined as how to resolve the issue to the benefit of all parties. This is particularly true when two parties are trying to negotiate settlement of either a change or a dispute. In this new style of negotiation, each group is motivated to reach an agreement, although it is acknowledged that both parties may not be equally motivated.

Negotiators in this new style always keep the goal in mind and always focus exclusively on reaching the goal. In the win-win form of negotiation, the goal is to reach an agreement. In keeping with win-win negotiations, the new process of negotiating construction settlements is to first establish the contractor's position clearly and concisely, then establish the owner's position. This sets the stage for the remainder of the negotiation. The next step is to identify similarities and set them aside as agreements. This should be followed by a time when the negotiators explore alternatives concerning areas of disagreement. For example, in a change order situation, you may propose owner-furnished equipment or materials, or propose that the owner's staff do some of the changed work themselves. Long-duration change orders might become more palatable if agreement can be reached to include a price redetermination clause or a cost-escalation clause. The next step in the negotiation process is to choose among the alternatives identified and reach final agreement. Finally, formalize and finalize the settlement paperwork in an expeditious manner.

The general pattern of negotiations accomplished in the team format is modeled closely after the win-win style of negotiations. The first action in team negotiations is for both teams to meet with the specific objective of negotiating scope: either the scope of the changed work or the scope of the issue in dispute. The results of this first step should be recorded in writing and provided to both teams. Both teams are thus assured that they are focusing on the same work scope. This step should be followed by the time and cost estimating step, in which both the contractor and the owner should take the agreed-upon scope and perform independent analyses of the time and cost impact. Upon receipt of the contractor's time and cost proposal, the owner's negotiation team should analyze the contractor's proposal. This stage should be followed by joint meetings to negotiate a final settlement of the issue, and final agreement should be followed by the appropriate written documentation of the agreement.

TEAM NEGOTIATING—INTERNAL TEAMING

Experience indicates that teams almost always negotiate construction settlements better than individuals; therefore, settlement negotiations should always be planned as team events. Experience has shown that team negotiations bring more experience and knowledge to bear on a settlement situation, making it more likely that a rational, justifiable settlement can be reached. Teams generally have more skills and diverse talents than individuals. Finally, team negotiations not only allow the team to control individual members and help keep them focused on solving the problem, but also make it easier to keep written notes and documentation of the negotiation, since one team member can be specifically assigned at each session to take the meeting notes.

The procedure for establishing the internal team (for either the owner or the contractor) starts with the selection of team members. Selection of appropriate team members is critical to the success of team negotiations. Not only does the project manager

have to select people with knowledge of the issue, but the members must bring the right mix of talents and skills. For example, a team may include a project manager, a superintendent for that portion of the work, a cost estimator, and a project scheduler, depending upon the issue in negotiation. After selection of the team members, the team must coalesce as a group and become motivated to solve the problem. Any team member whose motive is anything other than problem resolution (defined here as satisfactory settlement of the issue) should be removed from the team and replaced. There is no room on a tight-knit negotiating team for hidden agendas or conflicting egos.

After team selection and negotiation of scope, the team should meet to prepare independent time and cost estimates and/or perform a joint analysis and review of the time and cost proposal from the other side. The team should then meet to plan the negotiation. Planning the negotiation includes, at a minimum, drawing up a list of every issue needing resolution, establishing ranges of objectives (both time and cost), and determining which issues can be compromised, and to what extent, as well as those that cannot. The team needs to establish ground rules for the negotiation. Details such as who will lead the negotiations, when the lead will change hands, who will document the negotiations, what process will be used to develop alternatives, how the team's compromise offers will be presented, and when breaks will be taken need to be established in advance. This is the team's "game plan" and must be clearly understood and agreed to by all members.

The final action with respect to internal teaming is to raise the team's aspirations. Research has shown that teams entering negotiations with higher aspirations are more likely to achieve a settlement to their liking. This is a motivational activity, but it pays measurable dividends.

Upon achieving a settlement acceptable to both parties, the owner's team should draft the change order or settlement document, including full and final settlement language that waives further claims concerning the settlement. If all details of the issue being negotiated have been properly identified and fully explored, then there is no reason to object to the inclusion of such language. Finally, both teams need to conclude the agreement, follow up with the required paperwork, and pay or be paid promptly.

COMPARISON OF TRADITIONAL VERSUS TEAM NEGOTIATION TACTICS

Following is a comparison of the tactics recommended for use in traditional negotiations with team negotiation tactics using the win-win style, to draw a clearer distinction between the two approaches.

Trust

Traditional negotiators are advised to never trust the other side, and to "never let down your guard." Other negotiators are viewed as the enemy and as such should never be trusted. By contrast, in team negotiations you should begin negotiations on the basis of mutual trust. Unless something happens to destroy this premise, the team negotiator assumes the other party is both ethical and deserving of respect. Another way to express this new approach is that the team negotiator proceeds in the absence of trust. The team negotiator does not make trust an issue, but instead establishes that both parties

have a mutual problem (the need to reach resolution of an issue) and that both parties are considered to be problem solvers. Focusing on the problem and a range of solutions potentially acceptable to both parties is more likely to lead to successful resolution.

Location

Advice concerning the tactics of traditional negotiations even addresses matters such as the location of each negotiation session. Traditionally, to be a successful negotiator you had to control the location of each negotiating session. In this way, the negotiator is advised, you can gain a psychological advantage over the other party that is similar to the vaunted home court/field advantage frequently discussed in sports. Alternatively, the traditional negotiator is told to find a neutral site for meetings where both parties are on a "level playing field." In team negotiations, location is irrelevant. The location selected simply needs to be comfortable and convenient and not used to either party's advantage.

Timing

Traditional negotiators are given advice on how to use tardiness or a planned late arrival at negotiating meetings to aggravate or shake the confidence of the other side and gain an advantage. Negotiators in the traditional style are often advised to "squeeze the time" of the negotiations with the strategy of finding out how long the other side can remain at the bargaining table before having to leave for the airport, for example, and then saving the most critical items of negotiation until very close to that time to apply pressure. Team negotiators are best advised to practice common business courtesy in all their dealings. This includes arriving on time and allowing sufficient time to conduct and complete the negotiations.

Obfuscation

Obfuscation tactics frequently described in traditional negotiation literature include the use of complaints about situations unrelated to the issue in negotiation to sidetrack or put the other side on the defensive. Advice concerning the use of general information versus detailed discussion of negotiation points, in a calculated effort to either hide information or cover up the fact that detailed information is unavailable, is often given. The concept is that withholding information or refusing to admit information does not exist puts the other party at a disadvantage. The information overload tactic is the converse of the above. This is the tactic of providing an inordinate amount of trivial information with the intent of distracting attention from areas of weakness. A team negotiator employing the win-win style seeks to clarify issues and facts rather than hide them and at all times proceeds in an open, honest manner.

Positioning

The use of "throwaway" positions is recommended to make the traditional negotiator seem conciliatory. These are contrived positions with no legitimate value to the

outcome of the negotiation that are set forth solely to allow the other side to reject them and thus gain a victory. Traditional negotiators are told not to honor an initial high demand with an immediate counteroffer. Rather, the successful negotiator first gets the other side to lower their initial demand. Only then is it appropriate to set forth a reasonable counteroffer. Traditional negotiators are taught that the first goal of negotiation is to decrease the expectations of the other side. Regardless of how close the other side's position is, efforts must be made to convince them that they are far off the mark. Traditional negotiators are advised they should never accept a first offer even if it matches their own goal. The justification for this tactic is twofold; first, the belief is touted that the first offer is only an opening offer, or a "feeler," to sound out the other side, and the other negotiator is prepared to move off this position. The second justification offered is that if you accept the first offer, the other side leaves the bargaining table with a sense of disappointment. The team negotiator refuses to use throw away positions and won't use the "decrease their expectations" tactic since these methods are irrelevant to the objective of achieving settlement. The team negotiator is willing to accept initial offers if they meet the previously determined goal because this accomplishes settlement quickly.

Surprises

Traditional negotiators advise negotiating along the lines of "Perry Mason-style" courtroom tactics. Whenever possible, spring surprises on the other negotiator. The premise is that surprise is the enemy of a negotiator. The team negotiator recognizes that surprises are not an advantage but instead disrupt an otherwise orderly process.

Concessions

Traditional negotiators are given advice on making and receiving concessions during negotiations. Among the advice given are the following points: never make the first concession—research shows that losers in negotiations invariably are those who made the first concession. Make it clear to the other negotiator that all concessions offered are tentative and subject to withdrawal at any time if negotiations do not proceed satisfactorily. Never give a concession without getting one in return. When the other side offers a concession, take it. The traditional negotiator is advised to not feel compelled to offer one in return as this may establish a pattern of one-for-one trading. Traditional negotiators are cautioned not to "telegraph" moves by establishing a pattern of concessions during negotiations. Finally, traditional advice is to identify one last concession to terminate the negotiations and leave the other negotiator with the impression that he or she won the last round.

Team negotiators, on the other hand, only make and take concessions if they make sense in terms of the negotiation. They do not fear making the first or the last concession if it moves the negotiation toward the goal of acceptable settlement. Team negotiators only use concessions designed to move negotiations toward final settlement; anything else is considered a waste of time and effort. Team negotiators are cautioned to keep track of concessions by keeping a written list, not as you keep the box score during a baseball game, but as a way of recording agreements achieved on the way to the overall goal.

Aggression

Traditional negotiation tactics for those striving to become more aggressive negotiators include trying to make the other side appear unreasonable in an effort to put the other negotiator on the defensive. Use of any tactic whatsoever to place the other party "on the defensive" is fair in traditional negotiations. Throwing the blame for your "inability" to compromise on a third party is another strategy frequently recommended. For example, statements that "the city council will not approve . . ." or "the president of the company has told me not to . . ." are considered legitimate ways to avoid compromise, even if the statements are not true.

The "vinegar and sugar" approach is another plan whereby two members of the same team make offers at opposite ends of the spectrum. One is quite unreasonable and is offered only as a way to make the other side believe they can divide and conquer. The "good guy/bad guy routine" made so popular in the movies has long been standard procedure in traditional negotiations. The team negotiator maintains integrity at all times and has disdain for the use of such tactics because they waste time and do not contribute to the objective of reaching settlement.

Walkouts, Silence, and Asides

Traditional negotiators are often coached on the tactical use of the walkout to confuse the other negotiator, throw him or her off balance, or disrupt the flow of the negotiation. The agreement and rebuttal technique, wherein the traditional negotiator is advised to always say "Yes, but . . ." in an effort to seem reasonable, while at the same time not conceding anything, is usually recommended. Silence as a tactic also has often been written about. This is the tactic of not responding to any offer made and maintaining absolute silence in hopes that the other negotiator will feel uncomfortable and start talking (offering) more.

The aside meeting also is often recommended. This is a private meeting of the two chief traditional negotiators, outside the meeting room and beyond the hearing of the negotiating teams, in an effort to structure a side deal that may help make the main negotiating point more palatable. This tactic is adopted from international, diplomatic negotiations, "à la Henry Kissinger." Team negotiators only walk out when negotiations have utterly failed and need to be pushed to a higher level. Team negotiators rarely use the "Yes, but . . ." tactic since it is a charade, not open communication. Finally, the team negotiator does not hesitate to conduct business in an open environment, having no need for secret meetings or deals.

Authority and Bogeys

The use and abuse of higher authority in traditional negotiations is frequent. One practice is to have a high-ranking official on one side call a similar ranking official on the other to complain about the lack of cooperation of their negotiator. This is a legitimate tactic to increase pressure in traditional negotiations. Another use of higher authority is to get a high government or company official to sit in on a negotiating

session with the idea of speaking directly to him or her, thus bypassing the negotiator. The idea is that higher authority is more likely to compromise because they lack detailed knowledge of the situation or because they are tempted to display their power and offer compromises others cannot agree to.

Finally, the "bogey" tactic is recommended, which is a tactic where the traditional negotiator, having received the other side's "best offer," says "I'd like to take the offer, but we've only budgeted \$50,000. If you can come down to that, we've got a deal." Another form of the bogey in negotiations with government agencies is "Any agreement over \$100,000 will delay settlement as we have to go back to the appropriation committee," or "We'll have to call in an auditor before we can sign any settlement above \$100,000." Team negotiators using the win-win style recognize that pressure tactics are detrimental to the project in the long run. Higher authority should be involved only when it can legitimately contribute to the process, not as a tactic. Team negotiators do not use the bogey, since it works against open, honest communication.

Teamwork

Traditional negotiations are conducted as an "us versus them" exercise, much like a football game. The goal can only be attained at the expense of the other side. Team negotiations are instead structured as a team exercise. At the outset it is made clear that the sole purpose of the negotiation is to discuss a mutual problem, identify areas of agreement, identify areas of disagreement, understand why there is disagreement, identify and explore alternatives, and, finally, reach a mutually acceptable resolution. All those involved understand that both negotiating teams share an identical goal, which is defined as reaching settlement of the problem through negotiation. It is easier to reach settlement if both negotiating teams understand they share this joint goal. Team negotiators seek to turn adversaries into partners. Even though both teams enter negotiations with different outcomes in mind, they must understand that they share the same objective; by focusing on this objective, the teams cease to be adversaries and end up being partners. Instead of picturing themselves as opposing football teams on the field of contest, the idea prevails that the teams are working together to solve the same problem, albeit from different perspectives and with different motives.

Agenda

Traditional negotiators avoid meeting agendas, as they hinder obfuscation and other dilatory tactics. To team negotiators, agendas help establish the joint teaming framework needed for settlement negotiations. They help focus discussion and keep negotiations on track. The first item on the agenda is the simplest: the areas of agreement. This helps start the negotiation on a positive note and keeps it moving toward settlement. The second item should include the areas of disagreement. The contractor's time and cost proposal for each area should be discussed in enough detail so that both teams fully understand the contractor's position. The agenda should then proceed to development of alternatives, alternative selection, and settlement.

Basis of Negotiation

In settlement negotiations, traditional negotiators are advised to withhold all information concerning the owner's independent time and cost analysis, as if revelation of such information gives the other side a superior bargaining position. In fact, federal regulations verge on prohibiting government contracting officers from revealing their estimate. Team negotiators recognize that negotiations should be conducted on the basis of the owner's independent time and cost estimate. Having previously clearly established the contractor's position, the next logical step is to establish the owner's position. No better way exists to accomplish this than to provide the owner's independent estimate. The objective of joint-team negotiations is to remain positive in pursuit of the shared goal. Therefore, rather than attacking the contractor's estimate or trying to drive down the contractor's request, it is more positive to "build up" the owner's estimate. Once the owner's estimate is put on the table and thoroughly discussed, the contractor's team focuses on adjusting the estimate on an objective and rational basis.

Detailed Negotiations

Negotiators operating in the traditional mode generally pursue bottom-line negotiations. They seek to find a number that satisfies them and do not quibble about how to justify the settlement value. Team negotiators, however, concentrate on negotiating details and on letting the bottom line fall out as a logical consequence of detailed negotiations. Detailed negotiations allow fuller understanding of the issues and are less likely to lead to later disagreement of what was, or was not, included in the settlement. Bottom-line negotiations are more likely to lead to a later dispute if other things do not go well.

Emotions

Traditional negotiators do not hesitate to use emotions as a ploy during negotiations. The calculated use of emotional outbursts (including both anger and tears to create sympathy or empathy, the generation of fear, etc.) to gain an advantage is frequently discussed. Team negotiators strive to control their emotions as well as those of all team members on both sides. If an attack is made, it is deflected, and there is no counterattack, since that destroys joint teamwork and is less likely to result in achieving settlement. At all times, team negotiators should, as suggested by Ury in his recent book, *Getting Past No: Negotiating with Difficult People*, be prepared "to step to the other side." Team negotiators should conscientiously make an effort to understand what the other side is saying and why. You do not have to agree, but mutual understanding and respect are critical to team negotiations.

Reframing and Bridge Building

Traditional negotiators always reject and rebut all arguments from the other side, and rebuttal and counterattack are two of their main operating principles. Team negotiators, on the other hand, take another tactic from Ury; they do not reject positions as-

serted by the other side. Rather, they reframe them as attempts to deal with the problem. Questioning the position is more likely to lead to understanding and inventing options than direct rejection. Team negotiators build bridges to agreement by using the other team's ideas when identifying alternative solutions. Team negotiators concentrate on bringing the other side to their senses, not to their knees. They identify options that are mutually beneficial for both sides, and if these ideas are rejected, try to identify the cost of not reaching an agreement at the end of the negotiation. This is akin to the old adage of "keeping your eye on the ball," with the ball here being the mutually shared goal of reaching settlement.

Team negotiators also do not fall prey to the "settle at any cost" syndrome, which is an internalized pressure that causes people to stop acting in an objective, rational manner, and causes teams to agree to anything simply in order to reach any agreement. Almost without fail, teams arriving at settlements under these circumstances sooner or later conclude that they lost the negotiation and tend to become bitter toward the other team and look forward to opportunities to "get even."

Respect and Personal Relationships

Traditional negotiators view the other side as the enemy. They strive to maintain a cool, formal relationship, holding each other at arm's length. After all, it is easier to maintain the enemy image if you do not like the other negotiator. Team negotiators make an effort to understand and respect the other negotiators and their interests and fully explore these interests openly and honestly. Team negotiators take a personal approach during the negotiation process. They view the other negotiator as a problem solver who is helping to solve a mutual problem. Team negotiators take time to get to know the people on the other side and seek to separate the people from the problem. They do not take offense when the other negotiators represent their side with all the skill and talent they possess. Team negotiators are soft on people, but hard on the problem; they recognize that the opposition is simply trying to do a good job. Team negotiators also recognize and accept the emotions of the other team as a natural part of the process and use the personal and business relationships between themselves to facilitate negotiations.

Mutual Interests

Traditional negotiators make no attempt to understand the other side's interests. They represent their own interests, ignore everything else, and fail to recognize any shared interests. Thus, threatening the other side is a common traditional negotiation tactic. Team negotiators, by contrast, use offers to reach settlement, not threats. Team negotiators focus on mutual interests, not on positioning, which is a waste of time and energy. Team negotiators identify interests shared by both parties. One tactic frequently recommended along these lines is to ask "Why?" not "Why not?" Team negotiators attempt to understand the other side's interests before pressing their own.

Options

In the traditional form of negotiation there is an attitude of "my way or the wrong way." Traditional negotiators make no attempt to see beyond their own one-sided position. Having arrived at a position, the traditional negotiator spends the remainder of the time trying to force the other side to accept it. The team negotiator develops multiple options to choose from and then chooses from the options jointly suggested. Team negotiators try to "expand the pie" (i.e., "What if we also put in . . . ?") or change the scope of the issue being negotiated if it helps to reach settlement. Team negotiators are concrete in proposing options (they propose only specific options that can be accomplished) but flexible in thinking of options that can be legitimately considered. Team negotiation is based on the concept of inventing options for mutual gain through the use of creative, flexible, lateral thinking.

Option Selection

Traditional negotiators spend no time developing options for settlement, so there is no need to establish criteria for option selection. Team negotiators use objective criteria when choosing among options in order to reach settlement. Team negotiators make decisions based on objective standards, independent of will: they do not try to force the other side to accept something, nor allow themselves to be forced into settlement. Team negotiators go slowly, are patient during negotiations, and do not get angry or frustrated with the other side or the pace of negotiations. Team negotiators reason with the other side, and likewise, are open to reason. They yield to principle, not pressure, and avoid having a bottom line or negotiating the bottom line. Bottom-line negotiations, while frequently resulting in some sort of agreement, do not detail the settlement and frequently are the cause of future disputes.

THE MOST COMMON TRADITIONAL NEGOTIATION MISTAKES AND HOW TEAM NEGOTIATIONS HELP TO AVOID THEM

An excellent article appeared in the July 1992 issue of the *Journal of Management in Engineering*, entitled "Planning Your Negotiation". The author identified the 10 most common problems concerning negotiations, which are more likely to arise if a negotiator uses the traditional method rather than the team method of negotiation:

- The traditional negotiator uses a win-lose approach: "In order for me to win this negotiation, the other side will have to give up almost everything they demand." This approach inhibits a traditional negotiator from reaching rational settlements or even structuring compromises likely to lead to a settlement. Team negotiators use the win-win approach, which encourages settlements for the benefit of both parties.
- The traditional negotiator is unable to change negotiating styles and is so locked into a particular style of negotiation that he or she cannot adapt. This may result in a negotiation deadlocking or failing because of a breakdown of communication. Team negotiations are deliberately designed to be as flexible as possible to avoid deadlock and failed communication.

- Making concessions for the sake of a relationship is a problem more likely to be encountered with traditional negotiators. They may ignore their own needs in order to meet the needs of the other side, and as a result suffer a loss. Team negotiations focus on solutions that benefit both parties, precluding this sort of situation.
- Bargaining versus negotiating is a problem common in traditional negotiations. The traditional negotiator simply tries to drive the price up or down, similar to street-vendor negotiations. Emphasis is on the final cost, not on the scope of work, how the cost basis was established, or the elements of the cost proposal. Team negotiations use the detailed negotiation process to avoid this pitfall.
- Traditional negotiators establish objectives as a fixed point versus a range. Traditional negotiators who help prepare the proposal establish the goal for the negotiation as a fixed dollar amount (\$178,500) rather than a range of values (\$180,000 plus or minus 10 percent). It is then viewed as failure when the exact point is missed. Team negotiators use ranges of values to expand the probability of success and allow the negotiator to operate within a range rather than fixating on a specific point.
- Traditional negotiators often fail to choose their own team members properly and find they cannot control their own team. If a negotiator's own team members are "marching to the tune of a different drummer," the chances for success are substantially decreased. Team negotiators recognize this problem and pay attention to potential team members' personalities, knowledge of the situation, egos, ability to work as a team member, shared interest in reaching a reasonable settlement, past history with the other party, and so on.
- Traditional negotiators often fail to establish priorities for negotiations. In almost every negotiation, certain issues can be compromised, others can be compromised within specific limits, and some cannot be compromised at all. Traditional negotiators often don't recognize such differences and insist that all items be treated equally. Team negotiators understand this situation and establish priorities.
- Traditional negotiators also frequently fail to plan the negotiation and are so convinced that their position is right, they do not consider and plan for priorities, ranges of settlement values, an overall approach, negotiating tactics, and other details. The team negotiator knows these must be planned for and discussed in advance. Just as a sports team does not go onto the playing field without a game plan, a team negotiator does not begin without a negotiating plan.
- Traditional negotiators also often attempt to negotiate with unclear authority. This is especially true when negotiating a settlement with a public agency. All too frequently, the traditional negotiator reaches the point of settlement and then announces for the first time, "Of course, I'll need to clear this with the city engineer." Team negotiators understand the need to clearly establish the authority of both negotiators at the outset. Failure to do so means you may just be discussing something with a messenger.
- Traditional negotiators frequently do not take notes and debrief. This may be because they frequently negotiate on their own, without a team. Team negotiators know that taking notes during the negotiation is helpful in tracking the progress

of negotiations and helps prevent the other party from changing arguments when it suits them. Team negotiators understand that documentation is absolutely critical to keep track of interim agreements and structure the final written agreement so that it properly covers all negotiated points. Finally, on publicly funded projects, the team negotiator knows that such documentation is critical to surviving the audit of the settlement.

The traditional form of negotiation is combative, wastes time and energy, sometimes verges on being unethical, and is less likely to achieve satisfactory resolution of issues. The team negotiation style outlined here is more likely to succeed than traditional negotiations. I hope this article convinces its readers that internal teaming and joint teaming are logical extensions of the win-win negotiation process. Joint teaming in the negotiation of construction settlements is more likely to keep both sides focused on a shared goal—finding a mutually acceptable settlement—rather than continuing the dispute. Team negotiations not only make achieving settlement easier but can help establish a more professional relationship on the project, which will pay dividends in numerous other ways.

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SECTION TEN

Individual Differences

Are some people born negotiators? Many observers of negotiation have argued that some negotiators, by virtue of their personality, are simply much more capable of winning a negotiation or getting the best outcome. They argue that if we can understand which dimensions of personality contribute to negotiation effectiveness, we would be able to select potentially good negotiators with greater accuracy or to better understand how to train people to adapt their behavior to situations that their personality style does not normally provide.

In spite of these assertions and a great deal of research that has been devoted to identifying the characteristics and personality styles of more or less effective negotiators, the exact role of a negotiator's personality and its impact on outcomes is not well known. Many of these studies have yielded inconclusive results, and others have often yielded contradictory findings. Nonetheless, some facts are known. The articles in this section examine individual differences among negotiators from two perspectives. The first two articles take a behavioral perspective and concentrate on the behavioral skills of successful negotiators. The final article in this section takes a dispositional perspective and examines the influence of gender on negotiation.

In the first article, "The Behavior of Successful Negotiators," Neil Rackham reports the results of a series of studies that identified the behaviors that distinguish between excellent and average negotiators. Rackham found that superior negotiators behaved differently than average negotiators during the planning, bargaining, and reviewing stages of negotiation. While many of the findings of this study echo common sense, there were a few surprises. For instance, Rackham found that superior negotiators used fewer arguments to make their point than average negotiators did. The article explains clearly how to interpret this and other surprising results, and it is quite easy for the reader to translate the findings into behaviors to add to their own repertoire of negotiation skills.

In the article "Six Basic Interpersonal Skills for a Negotiator's Repertoire," Roger Fisher and Wayne Davis describe six fundamental interpersonal skills that every successful negotiator should have. Fisher and Davis discuss three aspects of each of the interpersonal skills examined. First, they describe some of the dysfunctional symptoms that may occur if the negotiator is lacking in the particular interpersonal skill. Second, in their "diagnosis" section they discuss some of the possible reasons why people fail to master each interpersonal skill. Finally, clear, practical advice is offered about how to master each interpersonal skill.

In the third article in this section, "Our Game, Your Rules: Developing Effective Negotiation Approaches," Leonard Greenhalgh and Roderick Gilkey explore some of