

Interest-Based Negotiation - Moving Conversations from Zero-Sum to Win-Win

24 March 2022

Q&A Session

This webinar presented by the Collaboration and Conflict Resolution Center provided participants an opportunity to learn about interest-based negotiation and tools to help transform potential conflicts into jointly developed solutions. Presenter Hal Cardwell (Director, USACE [Collaboration and Public Participation Center of Expertise](#)) instructed participants on how to move conversations from “how to divide the pie” arguments among parties into collaborative “expand-the pie” solutions that meet the interests of the formerly competing parties. This webinar also led participants through an interactive case study as well as discussed real-world USACE examples of the power of moving from positions to interests.



This summary of the Question / Answer session of the webinar is not a transcription; questions and responses have been edited and reordered for clarity.

Interest-Based Negotiation Strategies

What strategies can be used when one party does not want to negotiate or compromise?

Collaboration and negotiation cannot be forced. The likelihood of success of interest-based negotiation should first be assessed before it is pursued. If negotiation is unlikely to succeed, parties may want to pursue other options. It is important to understand the party's position, including why they do not want to collaborate and what it is the party really wants. A negotiated, collaborative solution may be possible if these motivations are well understood.

It is also important to remember that parties will only participate collaboratively if they see value in participation. Sometimes a party will be unwilling to negotiate or collaborate if they can achieve their goal(s) in other manners – what is their “Best Alternative to a Negotiated Agreement (BATNA)”. For example, the party may have a champion who will implement their preferred option, regardless of whether the party participates in the negotiation.

What is the best strategy to help individuals or parties realize there is a problem that needs to be addressed in the first place?

In situations like these, facilitators are incredibly useful, as they can work to draw out and bring visibility to problems and potential conflicts, while also navigating potential reasons for one party not recognizing a problem when another does (e.g., power dynamics).

Is achieving consensus or majority voting a better option for decision-making in the collaborative process?

There are different ways to define consensus. While consensus can mean that everyone agrees, it can also mean that everyone agrees on a modified option they can live with. This is a preferred outcome, because it demonstrates a sincere effort to bring everyone along by working to accommodate opposing parties.

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In addition, it can be hard to keep relationships positive with strict majority voting processes. In a majority vote is used to select an outcome, it is important to look at how power dynamics, relationship histories, and the expected length of time that parties will work together in the future can affect votes.

Negotiations can be time consuming. What strategies should be used to come to a win-win solution quickly?

It is important to go slow to go quickly. Time and trust are two elements that cannot be bypassed in interest-based negotiation. Parties and facilitators should take time to assess the situation, understand power dynamics and relationship histories, and if applicable, figure out how to address past issues or concerns. Parties should also work to strengthen relationships using trust building techniques and tools, because trust helps create transparency. Parties are often understanding of other perspectives and constraints on solutions when the opposing party is straight forward, respectful of the problem and opposing viewpoints, and there is the perception of fairness.

Additionally, a good facilitator is especially helpful in these situations and may be warranted. A facilitator can help address more sensitive topics and draw out the underlying interests of parties.

Trust Disparity

What are some strategies for navigating situations where a trust deficit exists, and particularly where a tribe does not trust USACE but some USACE personnel may be unaware of the dynamic?

In situations where one party is unaware of a trust issue, it is critical for the other party to be made aware of the lack of trust. Once the other party is aware, work can be done to try to understand the specifics of the complaint and determine if there is a path forward available for rebuilding trust. If a path forward to rebuilding trust is not feasible, then changing out personnel can sometimes help the situation. For more specific advice and assistance for USACE Tribal projects, engage your District's tribal liaison and USACE's [Tribal Nations Technical Center of Expertise](#) (TNTCX).